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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, all things, all places, all people belong to You. You have promised that those who seek You will find You. Strengthen our faith to believe that You will be with us wherever the circumstances may lead. Continue to sustain the Members of this body as they confront challenges. Give them the wisdom to depend on You.

Heal wounded spirits, troubled consciences, and remove cares. Provide them with wisdom to perceive You, intelligence to understand You, and diligence to seek You. Replenish their physical strength when the days are long and give them resiliency for the difficult road ahead.

We ask this in the name of Him who supplies all our needs. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 5, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON TESTER, a Senator from the State of Montana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. TESTER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican Leader, the Senate will be in a period of morning business for an hour, with the time divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

Following morning business, the Senate will resume consideration of the Consumer Product Safety Commission legislation.

Mr. President, I certainly complain when things do not go well here on the floor and we are unable to legislate. I think that what has transpired on the CPSC legislation is how we should legislate. I hope it continues that way. In that regard, it appears we have a piece of legislation—it is bipartisan in nature, it came out of the committee after much consternation. We were concerned that we could not get anything out of there. We finally did get something out of the committee. It looks like a very good piece of bipartisan legislation.

We are going to finish this bill this week. I hope we can finish it sooner rather than later. I alerted my caucus that we would be in session until we do finish the bill, but there is no reason we cannot finish this very quickly. I see no reason we have to move to cloture. If that becomes necessary, I will certainly talk to the distinguished Republican leader. But I do not see that on the horizon at this stage.

I hope we can move forward on this legislation. I would comment on this: The managers of the bill are somewhat hesitant on an amendment. They did not know if we should vote on it. That was handled properly when the manager of the bill, Senator PRYOR, moved to table an amendment.

That is the way to go, not worry about people talking too much or, well, they are not going to let us vote on it. The manager of the bill has that prerogative when someone offers an amendment. They say their piece, they move to table. It is nondebatable. And we need do that on this legislation and other pieces of legislation and not worry so much about a difficult vote.

So I hope we can move forward as we have and finish this legislation as quickly as possible.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MINORITY LEADER

Mr. MCCONNELL. Mr. President, I wish to use my leader time.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

AMT IMPACT

Mr. MCCONNELL. Mr. President, last week our friends on the other side pulled the housing bill. But the problem the bill was meant to address obviously does not go away. The effects of the housing downturn continue to spread.

Yesterday the Fed Chairman called for a vigorous response from banks and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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from lenders. He said aggressive action by lenders would help stressed homeowners and help ensure the health and well being of the broader U.S. economy.

Well, we Republicans have been saying the same thing about Congress's response to the housing crisis for 2 weeks. The Democratic plan for stressed homeowners is to raise monthly mortgage payments on those who buy new homes or refinance existing ones. We have a different view on this side of the aisle. We want to expand the family budget, not the Federal budget, by helping homeowners with targeted assistance and homebuyer tax credits that will make the problem better, not worse. We have a concrete plan to foster the conditions that lead to more homeownership by protecting existing jobs, creating new jobs, increasing wages and keeping taxes low.

Among the things we can do to keep taxes low is to patch the loophole that threatens tens of millions of middle-class Americans with a giant AMT tax this year. There is no reason we cannot come together now and remove any doubt Americans have about paying a tax that threatens to cost them, on average, $2,000 more in taxes this year.

We patch the AMT every year, and because it was never meant to hit middle-class taxpayers in the first place, we patch it without creating new taxes somewhere else. In the current economy, we should spare taxpayers the political theatre of waiting until the last minute to go through this annual charade.

Last night the Budget Chairman said the Democratic budget proposal this year will include an AMT patch without an accompanying tax hike. I think that is certainly good news. I commend him for that decision, and it is one more reason we should not put off passing the AMT fix. If this is what the chairman intends, we should follow through on it now to give taxpayers added certainty. We should remove the doubt about the AMT now so Americans who are worried about the economy have one less thing to be concerned about.

Last year a Democratic-led standoff over passing an AMT patch threatened to delay tax returns for 50 million taxpayers, totaling about $75 billion in refunds. In this economy, we cannot afford to play these kinds of games. We know we will patch the AMT at some point this year. We should give some comfort to taxpayers by doing it now. It is time to put American families' budgets in front of the ever-expanding Federal budget.

Mr. President, I share the view of the majority leader that we are making good progress on the underlying bill, and hopefully that will continue today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I think it is important I respond to my distinguished counterpart. We did not pull the bill. We were unable to go to the bill. We moved to proceed to the bill and had to file cloture. We could not get 60 votes because we had 1 Republican vote with us to move so we could legislate on housing.

As I have said so many times, if the Republicans were serious about legislating on housing, they would have moved to the bill. I pulled the bill? That is as Orwellian as this conversation could be. I did not pull the bill. I tried to go to the bill. Republicans would not let us go to the bill.

We have five simple things in our housing package that are extremely important to the housing industry. Transparency is JACK REED's provision that all of these agreements should be transparent, they should be understandable.

No. 2, the President asked, and we proceeded to do what he asked, to have revenue bonds to take care of some of the distressed properties. No. 3, we have large segments of—we were in a meeting that is still going on with faith leaders. The head of the Baptist Convention says in his neighborhoods, one, two, and three houses are going into foreclosure every week. They have neighborhoods that are in trouble.

We have CDBG grants in our bill to allow States to step in and take care of some of those troubled properties. We also have something that the homebuilders care about a great deal, and that is a loss carryforward. It is something they want that would be helpful to the economy, that would be helpful to the housing market.

Finally, we have a provision that says: If you have a home, you should be able to go to bankruptcy court and have the loan rate adjusted, just as you can if you have a vacation property that you need to have readjusted. Those are the five things, very simply.

But I say if my Republican colleagues think there is a housing crisis, let us legislate the housing crisis. Come here, offer amendments and deal with it.

But remember, they held a press conference on the same day, on the same day they stopped us from going forward on housing. What did they do in the press conference? Here is what they wanted to do to solve the problems of housing around our country: tort reform. Now, you can imagine what a laugher that is, tort reform to solve the housing crisis in America today.

Secondly, they want to lower taxes. Now try that one on. They are not serious about the housing crisis or they would allow us to move forward. No, we did not pull the housing bill; they would not let us go to the housing bill. That is the record. Vote No. 35, 110th Congress, cloture, motion to proceed, cloture motion was rejected because we did not get 60 votes.

So all we want are the facts. When you look at those nasty facts, it indicates the Republicans do not want to legislate on housing. They want, as the President suggested in his press conference last week, to let us see what happens in June when the rebates come back.

This is not a wait-and-see, this is a problem we have to address immediately. What the President has done is voluntary in nature. It helps less than 3 percent of the homes in foreclosures now. Reports yesterday said it was basically worthless.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 1 hour with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

The Senator from Idaho.

THE BUDGET

Mr. CRAPO. Mr. President, I wish to use my time by following up on the comments our leader has made with regard to the budget. It is budget time in Washington right now. Although many people are focused very heavily on the President's budget submission, the reality is that the budget is a uniquely legislative responsibility. The President makes a recommendation, but it is this Congress, the Senate and the House of Representatives, that establishes the budget for our Nation.

The budget that was announced yesterday and reviewed, which we will be evaluating in the Budget Committee today, in my opinion, is not responsible. In fact, it is an embarrassment.

We often talk about the fact that we want to avoid tax-and-spend politics in Washington. But this budget plunges headlong back into the very tax-and-spend policies of the past that have put us in the dire fiscal position we are in today.

The budget is a failure on the spending policy, it is a failure on the tax policy, and it is a failure on the additions to our national debt that are monumental, which it contemplates. It is a failure because it does not do a single thing about the most significant fiscal problems facing us, namely the entitlement problems and the entitlement portion of our budget.

Let me go through all those briefly. To do so, I am going to explain—this may be a little bit basic to those in the middle of budgeting, but I am not sure the folks who pay attention to those understand exactly how the budgeting process works.

This year we will have the first budget that exceeds $3 trillion in Federal spending. In rough approximation, that budget is approximately two-thirds entitlements and spending on the interest on the national debt. The other remaining third is made up of what we call discretionary spending.

Again, approximately half of that is our national defense budget, and the

remaining half is the rest of our nondefense discretionary spending; basically the rest of everything in Government more than our entitlement programs, interest on the national debt, and defense spending.

The problem, the most significant problem we face in our budget today, is the fact that the two-thirds portion I talk about, the entitlements and the interest on the national debt, are out of control. I often say they are on auto pilot, this spending in that two-thirds of our budget. That is growing at a rate that has often doubled, sometimes more than doubled, even tripled or quadrupled the rate of the growth of our economy.

It grows without a vote in Congress. Previous Congresses have passed legislation, and previous Presidents have signed the legislation into law that has established our entitlement programs.

Entitlement programs grow regardless of what we do in Congress. We could never vote again here in Congress and this spending would continue at rates that have nothing to do with the health or strength of the economy and which, as I have said, far ourpaces our economy. What does the budget before us propose to do about this? Nothing. Yet again we have no opportunity proposed in the budget that we will be battling over to try to address this incredible fiscal problem our Nation faces.

What does the budget do instead? It increases spending dramatically in the discretionary part of the budget as well as allowing the entitlement section of the budget to rage uncontrolled. We are looking in this budget at a $350 billion deficit, and that doesn't count war spending except for a small portion. It doesn't take into account the fact that we just passed a stimulus package that put another $150 billion of debt on the backs of our children and grandchildren without paying for it under the pay-go rules we are required to live by in Congress—in other words, $150 billion of new spending with no offsets against any other spending immediately put on the backs of our children and grandchildren in the form of national debt which they will pay back at a much higher rate as interest compounds on it over the years.

What does this budget do in order to try to deal with this increased rush for spending? It raises taxes. It raises taxes over $700 billion in the next 5 years. How does that happen? By the way, this tax increase America will face under the assumptions of this budget will occur with no vote in Congress. How does that happen? To explain that, I need to explain how the budget works.

As most people in America are becoming aware, there is a filibuster in the Senate that requires, on major policies where there is disagreement, essentially that in order to move forward, 60 votes are needed to get past the filibuster, to get cloture. Because of that 60-vote requirement on filibusters, it is difficult to either increase taxes or cut taxes because there is usually opposition to either move, and it requires 60 votes to move forward. But there is one bill each year on which we don't have to have 60 votes. It is called the reconciliation bill. It is a part of our budget process. Because of the way the law is set up, we can have a 50-percent-plus-one vote on that reconciliation bill each year. That is how the tax cuts of 2001 and 2003 were put into place.

Those tax cuts, as a reminder, were reductions in the income tax marginal rates for every American, with the largest percentage of those reductions in the lower and middle-income categories, reductions of the capital gains tax, reductions of the dividends tax, and a number of other very important tax policies that in 2001 and 2003 reduced taxes because we were able to use the reconciliation bill to do so. The problem is that the reconciliation process requires a sunset.

People around the country must wonder why we are facing a sunset of these tax cuts. It is because in order to avoid the filibuster and get the tax cuts put into place, the reconciliation process was used, which itself carries a sunset. So over the next 3 or 4 years, the tax cuts of 2001 and 2003 will expire. Once they expire, taxes will go back up in nominal amounts on every American.

All we have to do is to extend those tax cuts to keep tax rates at their current levels, to be responsible about tax policy. But what does this budget do? In order to facilitate the explosion of new spending this budget contemplates, it assumes there will be no vote in Congress to extend those tax rates cuts. What does that mean?

Let's look at the first chart. Over the next 5 years, that means taxes are going to go up by $1.3 trillion. The lower income tax rates people are paying today are going to go back up. The child tax credit, the marriage penalty elimination, the estate tax reductions, and the small business tax relief all go back up. One year of AMT fix is contemplated, but the alternative minimum tax which is now slamming the middle class will not be accommodated in any year of this budget except for the first year. There are other extensions of other types of R&D tax credits and other things that are important for our economy that will go up. When you have totaled it all up, this budget contemplates and provides for $1.3 trillion of new taxes.

Over a 10-year period, the number is even more phenomenal: $3.9 trillion of new taxes. That is how we are facilitating the increased spending contemplated in this budget.

As I indicated, we are now facing a situation where Washington has returned to the tax-and-spend policies of the past. If we do nothing, which is what this budget contemplates, entitlement spending will continue to rage, driving up our debt. Discretionary spending will be accelerated, driving up the debt. Taxes will explode. When those tax rates go up, remember, it is going to happen with no vote in Congress. We are simply going to sit back and let America have the hugest tax increase it has ever had by taking no action to protect the American taxpayer.

I was elected to the House of Representatives back in 1992 or 1993. Ever since that time, we have tried to reduce taxes to accommodate a better tax policy and tax structure in this policy. Every time we have proposed a tax cut, that tax cut was attacked as a tax cut for the wealthy. That simply is not true. As our leader said, whether you look at the alternative minimum tax, the marriage tax penalty, the small businesses, the child tax credit, or the reductions of income tax rates across the board for every taxpayer in America, these taxes squarely hit the middle class and every income category across the board. We often talk about that typical family of four and the several thousand dollars of taxes they are going to be asked to pitch in for this. But it really is not just that typical family of four; it is a single mother, a single man, a family with children, a family without children, a married couple. Everybody who pays taxes is going to see their taxes go up dramatically.

This budget is not responsible. It is not responsible on spending policy. It is not responsible on taxing policy. It is not responsible because it provides for no action to deal with the entitlement reform so pressing in our Nation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

JOHN MCCAIN

Mr. COLEMAN. Mr. President, I would like to take a few moments to talk about one of my colleagues, the Senator from Arizona, Mr. MCCAIN.

Last night, he secured the nomination of the Republican Party to be President of the United States. I must admit that about 6 months ago, I was one of those who questioned whether Senator MCCAIN would be successful in this quest. While his passion for our Nation has never been in doubt, my sense was that his campaign for the Presidency was flickering to a close. What you saw last night is a reflection of character, the character of JOHN MCCAIN, the character that allowed him to persevere through the terrible torture of tiger cages in Vietnam.

JOHN MCCAIN has never, ever given up on this Nation. In the end, at a time when there is so much cynicism in the body politic and the public about politicians, it is uplifting, not just for this party or for this body, because the next President of the United States will come from this body, but for this country to have as our candidate a man whose character has been tested in a furnace that has burned hotter than any one of us could possibly understand.

At a time when the issues of security are so preeminent, we have as a candidate JOHN MCCAIN, who has been as steadfast on protecting this Nation as one could ever imagine. At a time when the public is concerned about wasteful Washington spending, we have as our candidate an individual who has been a champion in fighting wasteful Washington spending.

I wanted to take a few moments to offer my congratulations to our colleague from Arizona and to say to the American public, at a time when there is such doubt and cynicism, such division in this country, we have before them an individual whose character is strong. His courage is unquestioned. He has shown the ability to overcome the deep, divisive, partisan divide that tears this body apart, that tears this country apart. That is a wonderful thing.

I offer my heartfelt congratulations to our colleague from Arizona, Senator MCCAIN.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise to echo the sentiments of my colleague from Minnesota. The great thing about being involved in public service and having the opportunity to serve people from our respective jurisdictions is the privilege of becoming associated with other individuals who are dedicated public servants. We stand on the verge of history right here because in this Presidential election we are going to have two Members of the U.S. Senate who are going to be vying to become Commander in Chief. I think all of us as Members of Senate ought to be justly and duly proud of all of those who have put their names out there, who have worked hard, campaigned hard, and been willing to make the sacrifices necessary to travel the country expressing their views and opinions about issues to become President.

Obviously, last night our good friend, Senator JOHN MCCAIN, became the nominee on the Republican side. JOHN deserves an awful lot of credit for endurance, perseverance but, most importantly, for standing by his principles. That is the one thing we as Members of the Senate need to look to JOHN and say: There are ways to do this, and there are ways not to. But you stood by your values. You stood by your principles. You did this in the right way.

He is unique in so many ways. Everybody in here has their own unique assets. Certainly JOHN has a great and storied background from a military perspective, and he served his country well before he ever got to this body. But once he got here, as my friend has just said, he exhibited great leadership from the standpoint of providing the kinds of ideas, the kind of vision that is needed from a national security and a national defense standpoint. He also, primarily, had a vision about how the taxpayers' money, how the individuals he represents, as well as all other taxpayers in the United States, ought to have their money spent. JOHN has been a tireless advocate for the elimination of wasteful Washington spending. Assets such as those are what have projected JOHN to the nomination of our party. I am very proud of the fact that he is going to be leading us.

It is going to be a spirited campaign. All of us as Members of the Senate should be justly proud of all of these candidates who have been out there. I am very proud to stand today and salute my dear friend, my colleague, Senator JOHN MCCAIN.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. BURR. Mr. President, I echo the comments of my colleagues. Congratulations to JOHN MCCAIN and, more importantly, congratulations to Cindy McCain. Cindy has stood by his side every step of the way—through good, when people wanted to write his obituary, and now in the glow of being the nominee. She is clearly a wonderful partner in this process.

Many ask why JOHN MCCAIN succeeded. I would suggest it is because he loves America. He believes in America. He believes in the American people. He stated it in a real and personal way. But as my colleagues have highlighted, his background has set him up for this role at this time in our history.

JOHN is a man of consistency, so consistent, many times some of his colleagues have been critical of the fact that he is that consistent. But America is hungry for consistency. They are hungry for somebody to represent them who actually does what they say, means what they say, more importantly, takes on the tough issues.

JOHN is passionate, JOHN is courageous. His passion comes through sometimes in a different way than many of us, but he is tenacious when he sets his mind toward a goal. I think we have seen that in this election cycle. JOHN is stubborn and he is real. I think the most incredible thing about JOHN MCCAIN is: What you see is what you get. He has carried out straight talk with America, even when he went to Michigan and said things that were not popular. He has said about the war: I would rather lose an election than to bring our troops home with less than victory. Well, JOHN MCCAIN meant it, and he meant it because he understands the next generation is what the focus of his Presidency is about.

I am convinced this body should be proud because the next President will be a Member of this body. I am excited and delighted for JOHN and Cindy MCCAIN because their quest to be the Republican nominee has been fulfilled last night. I certainly commend him for his tenacity and for his hard work as he has gone toward this quest.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I thank my colleagues for coming down and highlighting the fact that the Presidential nomination on the Republican side has finally come to a conclusion—Senator MCCAIN won. To all those who were in the race, I think I have a little taste of how difficult it was for you and your families.

The Republican Party was blessed this year to have a group of candidates who represented the best in the Republican Party: To Governor Huckabee last night, he ran a great campaign; Governor Romney; Ron Paul—whatever you want to say about Ron Paul, he bleeds, he won his primary last night—and Mayor Giuliani. What a talented field we had on our side. It is equally true on the other side. We are going to have a Senator, as Senator BURR said, for both parties. I do not know when that last happened. But it is an exciting time.

I have had the pleasure of knowing Senator MCCAIN for many years. They will write books about how this happened because our campaign ran into a wall in the summer. I think one of the things you can say about Senator MCCAIN, as Senator BURR indicated, is that when he sets his mind to something, he is pretty hard to stop. He believes he has a little more service left in him.

If you want to know JOHN MCCAIN, you need to look at his family and the way he has lived his life—his time in the Navy. He looks at being President as one more chance to serve the country.

I was talking to him last night. The idea of being President is overwhelming. It is such a prestigious office, it is such an important office for the world and for our Nation. I just indicated to him: Just look at it as another tour of duty. This time you are Commander in Chief.

To the men and women in uniform out there who are serving in faraway places, standing watch as I speak, you are going to have a great Commander in Chief if JOHN MCCAIN wins. The other candidates are fine people, but I think the differences are going to be real.

Senator CLINTON said something last night. She is a very strong competitor and you never count the Clintons out and I do admire Senator CLINTON. This is going to be a spirited contest. But she said she wanted to end the war in Iraq and win in Afghanistan. Well, what the heck does that mean? I want to win in Iraq and I want to win in Afghanistan.

Senator OBAMA, who is a real phenomenon, who has come a long way in a short period of time, says the world is watching. He talked about some gentleman, the grandfather of one of his campaign operatives, I think maybe in Uganda, staying up all night to watch what we do in America. Senator OBAMA is absolutely right.

I can tell you who else is watching. Some of the most vicious killers known to humanity are watching what we do in terms of Iraq and the war on terror. They are measuring us. They are measuring our candidates for President.

They are seeing who blinks and who does not. They are going to watch what we do in the Senate, and they are looking for openings.

This is going to be a great contest. What an important time for America and the world. I hope we can have a civil debate. I am sure it will be. But the fact that there are great differences in a democracy is a good thing. I say to the American people, you are going to be blessed with some good choices. Please choose wisely because a lot of people depend on what you say or do.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

THE BUDGET

Mr. CORNYN. Mr. President, I wish to commend my colleagues for coming down to the floor and talking about Senator MCCAIN, who won the Republican nomination for President last night as a result of his success in the Texas primary. If there is one thing I can relate to beyond his security credentials, it is his commitment to eliminating wasteful Washington spending and making sure we are good stewards of the taxpayers' dollars.

I would like to engage in a colloquy with my distinguished colleague from New Hampshire, the ranking member of the Budget Committee, about some aspects of the budget we are going to be considering first in the Budget Committee and then on the floor of the Senate as early as next week. Because this is front and center in terms of whether we are going to restore our reputation, frankly, as Senators who believe in limited Government, if we believe Government should work effectively and we should keep our promises when it comes to how we deal with the American people.

I wish to ask the distinguished Senator, through the Chair: As we await the fiscal year 2009 budget today, I remember the majority last year, the Democrats, said they were very proud to announce a surplus as a result of that process. I would like to ask the Senator, how did that turn out?

Mr. GREGG. Mr. President, first, I would like to join with fellow Members of the Senate who have risen today to congratulate Senator MCCAIN. He is a force for right in this country. He is a person whose personal history is extraordinary. As somebody said: What you see is what you get. And what you get is an extraordinary American hero who understands we need to defend ourselves around the world and we need to be fiscally responsible in the United States.

New Hampshire sort of brought him back in this campaign, and so we played a small role in that, although I was not necessarily a part of that role. But, in any event, I now join with my colleagues and look forward to supporting him aggressively as he goes forward in this campaign.

I think the Senator from Texas raised some excellent questions. The question is, what happened with the Democratic budget last year, as I understand it. Essentially, what happened was they produced a budget which they claimed was going to do one thing, and it ended up doing the exact opposite.

They claimed, for example, they were going to basically produce a budget which would produce a surplus. In fact, they produced a budget which produced a huge tax increase—a $900 billion tax increase. To try to put that in context, that means every American—or 47 million Americans who pay income taxes—will have their taxes go up $2,700 as a result of the Democratic budget. It means 18 million seniors will have their taxes go up $2,400 as a result of the Democratic budget. It means small businesses across this country—24 million small businesses—will have their taxes go up $4,700 because of this almost genetic factor within the Democratic Party which says they have to raise taxes and they have to spend your money.

So their budget was a huge tax increase, I would say to the Senator from Texas, through the Chair.

Mr. CORNYN. Mr. President, I ask the Senator from New Hampshire, there was talk about a surplus, and then there ended up being a promise to extend middle-class tax cuts. I believe Senator BAUCUS, the chairman of the Finance Committee, proposed an extension of certain tax cuts.

I wonder if the Senator from New Hampshire can explain how you can have a surplus and then ultimately how that relates to tax cuts the Senator promised.

Mr. GREGG. Mr. President, to respond the Senator from Texas, what happened was the Democratic leadership last year produced a budget which raised taxes by $900 billion on the American people. They said: Oh, but out of the generosity of our heart, we are going to offer an amendment which cuts back that tax increase by about $154 billion, I think it was—the Baucus amendment—because we are going to extend the child care tax credit, the 10-percent individual rates, the marriage penalty. We are going to do all these wonderful things, even though we are raising taxes, even after that, by $750 billion.

But lo and behold, once again, we saw their actions be a lot different than their words. Even though they passed that amendment, took credit for that amendment, they never actually extended any of those tax cuts. So those tax rates are still in place on the American people, and that was a total fraud that was exercised last year by the Baucus amendment because nothing came of it.

Mr. CORNYN. Mr. President, I ask the Senator from New Hampshire through the Chair: I remember the Budget Committee chairman saying on ''60 Minutes'' last March that ''We need to be tough on spending.'' Surely, as the architect of the fiscal year 2008 budget, he was able to do that; correct?

Mr. GREGG. Well, Mr. President, I regret to inform the Senator from Texas, not surprisingly, he was not. In fact, they dramatically increased spending in last year's budget in the discretionary spending. They increased it well over what the President asked for—$250 billion of additional spending over what the President asked for over 5 years in their budget. Then, on top of that—that was not enough for them—they stuck $21 billion into the supplemental, which translates into another $200 billion of spending increases. So they had a total of approximately $450 billion of new spending—almost $500 billion of new spending—over 5 years in their budget last year.

So they did not discipline the budget spending at all. So when Senator CONRAD said on ''60 Minutes,'' ''We need to be tough on spending,'' they were not able to live up to that.

Mr. CORNYN. Mr. President, I ask the Senator from New Hampshire, although he has pointed out this last year's budget raised taxes and failed to control spending—indeed, spending increased——

The ACTING PRESIDENT pro tempore. Time has expired.

Mr. CORNYN. Mr. President, I ask unanimous consent for an additional minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CORNYN. I thank the Chair.

I ask the Senator, in addition to raising taxes and failing to control spending, surely the budget last year dealt with the growing entitlement spending crisis, which has $66 trillion in unfunded liabilities that will be paid by our children and grandchildren. Could the Senator address that?

Mr. GREGG. Well, Mr. President, again, regrettably, for the American people at least, the Democratic leadership said one thing last year on the budget and did the exact opposite. Not only did they not control any entitlement spending, entitlement spending expanded by $466 billion over their budget. This is similar to their claim they were going to not be raising taxes, when they raised taxes over $750 billion; similar to their claim they were going to be tough on spending, when they actually increased spending on the discretionary side by over $450 billion. This entitlement spending is another example of saying one thing and doing the opposite.

Mr. CORNYN. Mr. President, I say to the Senator, I remember when you were Budget chairman, Senator GREGG, we worked under the reconciliation process in fiscal year 2006 to reduce spending by nearly $40 billion over 5 years. Didn't the Democrats use reconciliation last year, too?

Mr. GREGG. Yes, they definitely ''used'' it. In my view, the Democrats manipulated the reconciliation process to increase gross spending by $21 billion, while saving a paltry net $750 million over 6 years.

Mr. CORNYN. I do remember Chairman CONRAD insisting that closing a portion of the tax gap—in other words, collecting unpaid taxes that are owed—would give us about $300 billion in revenues to pay for all this new spending. How much was recovered?

Mr. GREGG. Actually, none. The Democratic Congress last year passed up an opportunity to close the tax gap, failing to fund IRS enforcement efforts, and passed bills that would actually expand the tax gap.

Mr. CORNYN. Well, as a member of the Budget Committee, I have heard a lot from Chairman CONRAD on the state of the gross Federal debt. I have heard lots of press-friendly sound bites from him like ''the debt is the threat.'' Surely Democrats took some action to reduce the debt?

Mr. GREGG. No, again, no action. The fiscal year 2008 budget allows the gross debt to grow dramatically, by $2.5 trillion over 5 years, and spends all of the Social Security surplus, which is more than $1 trillion.

It is important to remember that this debt will be paid back by our children, so that a $2.5 trillion increase basically adds another $34,000 to the amount already owed by every American child under the age of 18.

Mr. CORNYN. What about budget enforcement mechanisms? For example, Democrats have claimed their pay-go will ensure fiscal discipline, and I have heard Budget Chairman CONRAD say that it is working. Is that true?

Mr. GREGG. No, it is not true. Democrats have waived, gimmicked or ignored their own pay-go rules to the tune of $143 billion in deficit spending.

Mr. CORNYN. I would like to learn more about this. To go back, when the Democrats took the majority, one of the first things they did was to restore tough pay-go, correct?

Mr. GREGG. It started out that way, but took a left turn. Democrats in the Senate ended up with a watered-down version of pay-go: no first-year deficit-neutrality test; no deficit-neutrality test for the second 5 years—all about spending now, paying much later.

Mr. CORNYN. But I thought that the Democrats were congratulating themselves for the hard choices they had to make in order to comply with pay-go.

Mr. GREGG. They did congratulate themselves. They even boasted about the ''pay-go surplus'' on the pay-go scorecard.

But they shouldn't congratulate themselves for hard choices—they should congratulate themselves for thinking up gimmicks and machinations to fool people into believing they made hard choices.

Mr. CORNYN. I have heard about a gimmick where the Democrats were able to increase mandatory spending for free by including it in an appropriations bill.

Mr. GREGG. Can you believe that? They included a 1-month extension of the mandatory MILC program in the 2007 emergency supplemental. Then the chairmen of the Senate and House Budget Committees told CBO to put the spending into the baseline—which covers 10 years of the program—to the tune of $2.4 billion.

The topper: They included an enforcement mechanism in their budget resolution that prohibited this practice, but they exempted the 2007 supplemental.

Mr. CORNYN. I have also heard about early sunsets as a gimmick to avoid pay-go. How does that work?

Mr. GREGG. In the SCHIP bill, the Democrats reduced funding from $14 billion per year to $3.5 billion in the last year, 2012. The gimmick hides $45 billion in spending.

The farm bill in the Senate also used this early sunset tactic to hide $18 billion in costs.

Mr. CORNYN. Wow. Are there more tricks?

Mr. GREGG. You bet. The student loan reconciliation bill phased down interest rates to 3.4 percent in 2011, then snap them back up again to 6.8 percent in 2012. This kept $17 billion in costs hidden.

The student loan bill turned off mandatory Pell Grant spending in 1 of the 10 years—hiding $9 billion in spending.

Mr. President, $10 billion in farm bill spending is pushed out beyond 2017—totally escaping pay-go enforcement.

I haven't even mentioned all of the corporate estimated tax shifts they have used, which move revenues from one fiscal year into another. Even Budget Chairman CONRAD himself called this ''funny-money financing'' during debate on the last highway bill.

Mr. CORNYN. Sounds like these gimmicks and violations add up to a pretty hefty total.

Mr. GREGG. Mr. President, $143 billion—quite a chunk of change.

Mr. CORNYN. Is there anything we can do about it?

Mr. GREGG. We can try and reinstitute a first-year deficit test, and we can try and reinstitute a second 5 years deficit test. We can adopt a scoring rule that prohibits shifts such as the corporate estimated tax shift from being used to satisfy pay-go.

But I am not confident they will accept such changes. They seem determined to keep up what the Wall Street Journal called ''a con game from the very start.''

Mr. CORNYN. This is very disheartening. Are there other examples of Democrats weakening budget enforcement rules?

Mr. GREGG. Yes, in last year's budget, the Democrats failed to protect Social Security for seniors. Democrats, in their fiscal year 2008 budget, threw out both the bipartisan Social Security ''circuit breaker'' and the bipartisan ''save Social Security first'' budget point of order contained in the Senate-passed version, thus removing crucial tools to eliminate the practice of spending the Social Security surplus on other programs. Under the Democrats' fiscal year 2008 budget, every dollar of the Social Security surplus, or $1 trillion, was spent.

They failed to protect workers against tax increases. Democrats, in their fiscal year 2008 budget conference report, threw out a bipartisan budget point of order against raising income tax rates that had been included in the Senate-passed version.

They failed to protect the integrity of the reconciliation process. Democrats threw out a bipartisan point of order in the Senate-passed version that would have limited any new spending in response to reconciliation instructions to 20 percent. By converting reconciliation to a spending exercise, Democrats allowed new spending that was 2,900 percent larger than the savings instruction in their budget.

They failed to protect State and local governments from expensive mandates. Democrats threw out a Senate rule requiring a supermajority to waive the unfunded mandates budget point of order, thus making it much easier to burden State and local governments with costs from Federal Government requirements.

They failed to protect the firewall between mandatory and discretionary spending. Democrats weakened a budget point of order against mandatory spending in appropriations bills, and exempted the 2007 supplemental appropriations bill from the requirement altogether, thus allowing no enforcement protection against the $2.4 billion MILC program enacted last year.

Mr. CORNYN. Well, I certainly hope that we do not see a repeat of this outrageous tax-and-spend budget this year, and that there is a great deal more honesty and transparency about what the Government is spending and how. I hope to see a return to fiscal discipline, with an eye on how today's budget will impact future generations.

Mr. GREGG. I completely agree. As Republicans, our top priority is to pass on prosperity and a strong economy to the next generation. We need to keep spending in check, take the needed steps to address entitlement reform, and keep the economy growing with a fair, progrowth tax system in place. It is unconscionable to leave behind this kind of fiscal mess the majority is making.

Mr. CORNYN. Mr. President, I thank the Chair and I thank the Senator from New Hampshire.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

AIRBUS FALSE CLAIMS

Mrs. MURRAY. Mr. President, I come to the floor this morning to spend a few minutes talking about the future of our Nation's global aerospace leadership, because, frankly, I believe it is in serious jeopardy.

Now, for any of my colleagues who have not heard, last Friday, the Air Force awarded one of the largest military contracts in history. It is a $40 billion contract. But the Air Force picked

a group led by the French company, Airbus, over an American company, Boeing, to supply our next generation of aerial refueling tankers.

I think I speak for many of us when I say it is deeply troubling we would turn our aerospace leadership over to a foreign company. If the contract had gone to Boeing, it would have meant 44,000 American jobs. So now Airbus is arguing that this contract isn't outsourcing jobs because it teamed with Northrop Grumman, and they have their supporters on the radio and TV talking about how excited they are about the work that will come to the United States because of this deal.

I think we better step back and take a good hard look at what Airbus is planning before anybody pops the champagne. The reality is, we don't know what Airbus is planning.

The Air Force has already said it did not consider jobs a factor when it awarded the tanker contract, so all we have to go on is Airbus's word. We have seen Airbus's slick marketing campaign before, and we have very good reason to be worried. Airbus has a history of bending the truth to try to convince Congress that it plans to invest in the United States, but when you examine their claims, they don't hold up.

Five years ago, when Airbus was first working to unravel Boeing's tanker contract, Airbus and its parent company, EADS, hired a small army of lobbyists to come out here and assert to us that their business was good for America. Well, at the time I was very skeptical of their PR campaign, so I asked our Commerce Department to investigate. Guess what I found. Airbus had claimed they had created 100,000 jobs here, but the Commerce Department looked into it and it wasn't 100,000 jobs; it was 500. Airbus said it had contracted with 800 U.S. firms, but the Commerce Department came back and said it was only 250.

At that point, Airbus did something very funny. They changed their numbers, decreasing the number of contracts from 800 all of a sudden to 300, but they increased the alleged value of those contracts from $5 billion to $6 billion a year. So I said at the time: You cannot trust Airbus's funny numbers.

What is interesting is, if you peel back the veneer on Airbus's promises this time, you start asking similar questions. Airbus had said it will build an assembly plant in Alabama. The Air Force says the planes will be American. A plant doesn't exist in America, and the only thing we know about the jobs it will create is that most of that work is going to be done overseas. If you don't believe me, read the British newspapers.

An article in a newspaper in Britain reported Monday that:

> Airbus will build the planes in Europe, and fly them to a plant in Mobile, Alabama, for fitting out.

Supposedly, this allows them to call them ''made in America.'' That is like shipping a BMW over from Germany, putting new tires on it, and calling it America's newest luxury car.

As I have said before, you can put an American sticker on a plane and call it American, but that doesn't make it American made.

I think we have to take some cues from the reaction of the French and German leaders about what this contract means for Boeing and the American industry, and it is not good. German Chancellor Angela Merkel called the deal ''an immense success for Airbus and the European aerospace industry.''

That is what they are saying in Europe.

A spokesman for French President Nicolas Sarkozy called this deal a ''historic success.'' That is what they are calling it in Europe.

Four years ago, I stood on this floor to raise an alarm to my colleagues about Europe's attempt to dismantle the American aerospace industry, and I have spent years warning the administration and Congress that we have to defend our industry and demand that Airbus play by the rules. For decades, Europe has provided subsidies to prop up Airbus and EADS. Airbus is, to them, a jobs program in Europe, and it has led to tens of thousands of layoffs in the United States because of their illegal tactics, which I have been out on the floor a number of times over the past years to delineate for all of my colleagues. The U.S. Government now has a WTO case pending against Airbus—against the exact company the Air Force has now awarded a $40 billion contract to.

So I think we have even more reason for concern because this contract now gives Airbus a firm foothold as a U.S. contractor, and it is one that is going to hurt our U.S. workers for years to come.

It took us 100 years to build an aerospace industry in the United States. But once our plants shut down, the industry is gone. We can't just rebuild it overnight. So let's set the record straight. With this contract—this Air Force contract—Airbus is not creating American jobs; it is killing them. With this contract, we can say bon voyage to 44,000 U.S. jobs and bon voyage to $40 billion of our taxpayer money.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CARDIN. The Senator from Louisiana is recognized.

Mr. VITTER. I ask unanimous consent to be recognized for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BORDER SECURITY

Mr. VITTER. Mr. President, I address the Senate today to announce the organization of a new caucus: the Border Security and Enforcement First Caucus. I am very proud to be joined today by several Members in this endeavor; specifically, Senators DEMINT, SESSIONS, INHOFE, BURR, DOLE, CHAMBLISS, ISAKSON, and WICKER. In the next few days, or in a week or so, we will have additional Members join, I am confident, based on a number of meetings and conversations I have had. So, again, I am happy to announce this important caucus to further the debate about a pressing national challenge. Our point of view and our focus is clear: border security and enforcement first.

Why join this caucus? Why form this caucus? Well, clearly, this problem is a major challenge for the country. Right now, 1 in 25 U.S. residents is here illegally. It is staggering when you think about it: 1 in 25, or 4 percent. The American people have voiced their enormous concern about this en masse, large-scale problem. They have also voiced their clear concern about some of the proposals put forward in Washington to allegedly solve the problem. One of those was shot down very clearly, very soundly last summer, and that is a solution that leads with a big, broad amnesty program.

I believe this debate moved forward last summer because we defeated soundly on the Senate floor that approach because the American people were finally heard loudly and clearly. I believe the message was unmistakable, beyond debate: We don't want a big, broad amnesty; we do want enforcement first. We want enforcement first. This caucus will basically follow that lead of the American people and continue to push the viewpoint and specific, concrete legislation that puts enforcement first, both at the border and at the workplace, as the way to begin to solve this enormous illegal immigration challenge.

So, first, our goal is simple: to push for border security and interior enforcement measures first, including workplace enforcement. That can be a main part of addressing this challenge and solving this problem. This caucus will be a platform to let Americans know that some in the Senate—a significant number—are continuing to make sure laws already on the books will be enforced and to push for stronger border security and interior enforcement legislation, and the funding, the mechanisms, and the systems we need in place to make that work. This caucus will act as a voice for those concerned citizens who have expressed that viewpoint—as I said, most clearly last July.

Another big point this caucus will help make over and over is a simple message: attrition through enforcement. In this immigration debate, I believe it has been a stale debate dominated by a straw man. That is the false choice that either we have to grant a huge amnesty to folks in this country illegally or we have to turn around the next day and have the law enforcement and resources to arrest, as some people put it, 13 million people. That is the false choice that is so often harped on

and presented on the Senate floor. That is a false choice.

There is a third way, and that is attrition through enforcement or whittling down in a significant way this 13 million plus figure to something much smaller, much more manageable, through real enforcement measures, not only at the border which, of course, is necessary to make sure the numbers don't go up and up, but in the interior, specifically at the workplace.

According to a recent Zogby poll, when given the choice between mass deportations, mass amnesty, and the third way, attrition through enforcement, a majority of Americans clearly choose attrition through enforcement. Of course, most polls leave out that option. Most polls promote the false choice. Most debate, quite frankly, on the Senate floor promotes the false choice, but it is false. There is this real alternative.

How do we get there? Two main ways: border security—the good news there is we have begun to make inroads, spending $3 billion on significant new border security in the last appropriations cycle, and that was positive follow-on to the defeat of the amnesty bill last summer. But there is also a second key ingredient, a second key ingredient that has been largely ignored and not addressed in this effort, and that is interior enforcement, particularly at the workplace.

In my opinion, that is the missing link, the missing piece of the puzzle to make all of this begin to come together. Border security is crucial. We have done significant work there. We need to do much more. But interior enforcement and enforcement at the workplace is at least as crucial. We need to have a real system that works for that security—a real-time database, not a system based on paper documents which can so easily be forged—to ensure that companies only hire folks in this country legally. When we have that system in place, that will change the dynamics overnight. That will begin this process of attrition through enforcement. That will bring that 13 million plus number down significantly, if we truly have the political will to produce a system, a real-time database, a nonpaper system to ensure that employers only hire folks in this country who are here legally. If they do otherwise, then, of course, they should be hit with significant criminal penalties.

So, again, I am proud to announce the organization of this new caucus: the Border Security and Enforcement First Caucus. My colleagues will be hearing a lot more from us in the coming days and months as we repeat the message delivered by the American people last summer so loudly, so clearly: We don't want amnesty. We do want enforcement first, including workplace enforcement, including interior enforcement that can lead to attrition through enforcement. Hopefully, we can begin to get our hands around this very crippling, potentially debilitating problem of illegal immigration.

Madam President, I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Washington is recognized.

Mrs. MURRAY. How much time is left?

The PRESIDING OFFICER. There is 14 minutes 16 seconds.

THE BUDGET

Mrs. MURRAY. Madam President, I rise this morning to respond to the ranking member of the Budget Committee, who came out a few moments ago to talk about the budget. We are in the process right now of putting together this year's budget. It will be voted on in committee today or tomorrow and, of course, then out here on the floor. We will have a lot of floor time over the next week to discuss the budget.

I felt it was really important to set the record straight because it is that rhetorical time again when we will hear our colleagues on the other side of the aisle come out and say Democrats are tax-and-spend liberals. Let me set the record straight.

Last year's budget had a $180 billion tax cut in it—not for the wealthiest Americans but for hard-working middle-class Americans.

We worked very hard to put together a fiscally responsible budget. We are not going to sit here and listen to ''tax and spend'' thrown at us time and time again when, in reality, with the Democratic President 7 years ago we came into the time with a budget that had a surplus, which we soon saw diminished incredibly, and we are now in deficit spending because of an irresponsible tax cut the Republicans have been pushing for the wealthiest of Americans, which even Senator JOHN MCCAIN didn't vote for at the time. It did leave us without the capacity to make sure we had the investments we needed to be able to ensure that Americans can stay in their homes; that they can have roads they can drive on to get to work; that they can make sure their children have the kind of education they need so they can get a job and contribute back to this country; and, importantly, to take care of our veterans who are coming home from Iraq and Afghanistan and finding long waiting lines at our medical facilities and not getting the adequate care they need.

The budget that the Budget chair will present this afternoon is, once again, a fiscally responsible document that understands the needs of Americans and will make sure we are responding to the crisis we are in today in this country and invest in America's people. It is fiscally responsible. It is not about tax cuts or tax increases, it is about making sure we have the revenues available to make sure every single American today has the opportunity that is available for them, that dream that they can live to be a strong American citizen and to keep our communities and America strong.

So I reject the argument that we all hear thrown at us time and again that Democrats are ''tax-and-spend'' liberals. We are fiscally responsible Democrats, and we are proud of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, as I understand, we are still in morning business.

The PRESIDING OFFICER. That is correct.

Mr. PRYOR. I ask unanimous consent that we yield back the time, and it is my understanding that more Senators would like to speak this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CPSC REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2663, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2663) 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.

Pending:

Pryor amendment No. 4090, of a technical nature.

Cornyn amendment No. 4094, to prohibit State attorneys general from entering into contingency fee agreements for legal or expert witness services in certain civil actions relating to Federal consumer product safety rules, regulations, standards, certification, or labeling requirements, or orders.

DeMint amendment No. 4096, to strike section 21, relating to whistleblower protections.

Feinstein amendment No. 4104, to prohibit the manufacture, sale, or distribution in commerce of certain children's products and childcare articles that contain specified phthalates.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, I wish to notify our colleagues that I think we are making great progress on this legislation. Senator CORNYN is here to talk about one of his amendments. We know there are a few other amendments that are being discussed right now, maybe in the cloakrooms or in Senators' offices. That is very encouraging. The feedback we have received has been very positive. It looks as if there are some amendments that will require votes.

I encourage all Senators who would like to come and speak to make plans to do that at some point today. I encourage anyone who has any amendments that they would like to have

considered to run those down to the floor as quickly as possible, if they have not already. We are really making good progress. I was encouraged yesterday by the vote we had at 5:30.

Here, again, we find that the Consumer Product Safety Commission is an agency that needs our reform. They need us to come in and to not just give them more resources—it is not a matter of just throwing money at the problem. They need more tools in their tool box and more resources and a little bit of restructuring. It has, again, been the goal of this legislation to make sure the American marketplace is safe, make sure that when people go to a store and buy a product, they can rely on the fact that there are safety standards, that it doesn't have materials in it that are dangerous or harmful. Really, this is an effort for us to accomplish something great in this Congress, in this election year, for the people of this country. So I thank all my colleagues on both sides of the aisle for their diligence in trying to get this done.

I ask any colleagues who would like to speak or anyone who has an amendment, please let us know because I am starting to get this sense that there are many who would like to wrap this bill up as quickly as we can.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I again congratulate the Senator from Arkansas and the Senator from Alaska for working on an important piece of bipartisan legislation, this reform of the Consumer Product Safety Commission. This is very important to all Americans.

I agree that we ought to be able to move through the amendments that are being offered. I have tried to offer amendments early so we don't backload them and create problems later in the week. I appreciate what the Senator from Arkansas had to say.

I have one amendment pending. In a moment, I intend to offer another amendment, so it will be pending. I have told Senator PRYOR that I am more than happy to agree to a short time agreement and a time for a vote after a debate and everybody has had a chance to be heard. These are not complicated amendments, but they are important. I hope we can move through this and vote on the amendments and complete our work shortly.

I told Senator PRYOR that I do have another amendment I would like to call up and get pending.

AMENDMENT NO. 4108

Mr. CORNYN. Madam President, at this time, I ask unanimous consent to set aside the pending amendment and call up amendment No. 4108 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Reserving the right to object, once the Senator finishes his presentation, we will go back to the pending amendment.

Mr. CORNYN. I agree.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 4108.

Mr. CORNYN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide appropriate procedures for individual actions by whistleblowers, to provide for the appropriate assessment of costs and expenses in whistleblower cases, and for other purposes)

On page 63, strike line 6 and all that follows through page 64, line 6, and insert the following:

in an amount not to exceed $15,000 for 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 $15,000, to be paid by the complainant.

''(4)(A) 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).

''(B) In an action brought under subparagraph (A), the court may grant injunctive relief and compensatory damages to the complainant. The court may also grant any other monetary relief to the complainant available at law or equity, not exceeding a total amount of $50,000, including consequential damages, reasonable attorneys and expert witness fees, court costs, and punitive damages.

''(C) If the court finds that an action brought under subparagraph (A) is frivolous or has been brought in bad faith, the court may award to the prevailing employer a reasonable attorneys' fee, not exceeding $15,000, to be paid by the complainant.

Mr. CORNYN. Madam President, I will explain to my colleagues what the amendment does.

Under the bill as offered, it creates, unfortunately, a bounty, so to speak, for alleged whistleblowers up to $250,000 in attorney's fees and penalties, which I think, rather than creating a level playing field and trying to address the legitimate concern that I happen to agree with, that people who disclose or identify illegal conduct need to be protected against arbitrary termination of their jobs when they are just trying to make sure the law is complied with and help contribute to the public safety. I think this bill, as currently written, tilts the playing field too far in favor of whistleblower complainants and has the unintended effect of encouraging frivolous and bad-faith allegations against employers.

So what my amendment would try to do would be to level that playing field while protecting legitimate whistleblowers but not actually encouraging people who have, perhaps, engaged in other misconduct and giving them a bounty, so to speak, to sue for under this statute.

Under the bill, an alleged whistleblower may file a complaint with the Secretary of Labor, and if the Secretary of Labor fails to act, then with the Federal district court. If the complainant prevails at a hearing or action, he or she can receive an unlimited amount of costs and expenses, including attorney's fees and expert witness fees. If the Secretary finds that the complaint is frivolous or brought in bad faith, the amount the employer can recover is limited to $1,000.

Let me make sure my colleagues understand that. If the employee prevails in the action, they can recover unlimited damages and costs, including attorney's fees and expert witness fees. If the Secretary of Labor finds at the administrative level that it is frivolous or brought in bad faith, the employer can only recover $1,000—obviously an unequal playing field and one that will have the unintended impact of encouraging bad conduct. If the case goes to district court, the employer cannot recover attorney's fees at all.

I submit that the rules ought to be fair for both parties and that $1,000 is not a significant deterrent to frivolous and bad-faith suits. If the complaint process is going to have any integrity, there have to be consequences for abusing the process with frivolous and bad-faith complaints.

What is more, the $1,000 limit on attorney's fees in the bill is inadequate to compensate an employer for the cost of defending against a frivolous or bad-faith complaint. An employer who is a target of such a suit will almost certainly incur more than $1,000 in fees just to have a lawyer review the file, file a brief, and attend a hearing. If the case goes to district court, the attorney's fees will be even greater but will not be recoverable at all under the bill as written.

This amendment levels the playing field by capping the costs and fees recoverable for both parties.

I might just add that I have to raise the question of whether a whistleblower provision is necessary. We are still researching the matter. Under most State laws, including the law in the State of Texas, an employer cannot fire an employee for reporting unlawful conduct. There are already remedies in place under State law, and I have to question whether it is necessary to create an additional remedy under Federal law. Assuming there is, I think we should, I hope, agree that there ought to be a level playing field.

My amendment strikes a reasonable balance between the interests of punishing retributive employer conduct and of discouraging frivolous and bad-faith claims. The amendment punishes wrongdoers and makes victims whole without creating incentives for employees to sue employers for frivolous or harassing reasons.

The amendment is fair to complainants, who can recover costs and fees whenever they prevail, as opposed to employers, who can recover only when the whistleblower complaint is shown to be frivolous or brought in bad faith. My amendment fully compensates complainants who prevail. Complainants can still get unlimited injunctive and compensatory relief. In other words, they can get their job back and recover backpay to be made whole. In addition, complainants can receive consequential and punitive damage that are not available to the employer, which is why the amendment allows complainants to recover up to $50,000 in total costs and fees and consequential and punitive damages, while employers can receive only $15,000 in attorney's fees.

I believe this is a reasonable amendment offered in the spirit of compromise, and I hope the other side will take a look at it and agree to accept the amendment. If not, I am willing, as I said earlier, to agree to some reasonable time agreement so we can debate it further and then have a vote on it.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, before the Senator from Texas leaves, I wish to thank him publicly. He has been very constructive in this process. He has offered a couple of amendments that he feels very strongly about, and we met with him and his staff on them. So I have talked to him about them. He is being very constructive in the process. I thank my colleague from Texas.

The other thing I noticed, Madam President, is that Senator COLLINS of Maine just walked on the floor. This bill has been called the Pryor-Stevens bill, but I could not exaggerate the amount of contribution Senator COLLINS has made to this effort as well. I have found her, in the last 5 years, to be a wonderful colleague to work with. She has made this bill better in some very fundamental ways—maybe not very exciting ways, but she really focused on one of the major problems we have with the CPSC today, and that is that the CPSC, with all due respect to the people who work there, has been almost incapable of dealing with imports in the way they should.

Senator COLLINS, I believe, had four amendments. We accepted all four. We have worked with her office and with her personally to make sure the language is right, to make sure the policy is right, to make sure it is smart law, which I think it is, and also to make sure it is a big improvement over the present situation; I don't think anybody can look at her sections of the bill and ever say she is not greatly improving our ability to protect our shores from dangerous and unsafe products. I am certainly glad she is here this morning to help manage this legislation.

The other point I wish to add is, Senator COLLINS has a lot of respect on both sides of the aisle. The fact that people know she worked on the legislation gives a comfort level on both sides of the aisle, but certainly on the Republican side, because they have seen how she has conducted her business since she has been in the Senate, but also the fact that she has had hearings in her committee on CPSC and some import problems. She has been a key player, a key architect in this legislation. I thank her.

I know we are going to have a lot of amendments today and a lot going on in this Chamber. We are going to try to clear a lot of amendments. Again, I encourage colleagues to come to the floor if they do have amendments or wish to speak. We are going to try to be in that process today of clearing amendments, putting a managers' package together, and having votes.

Before the day got crazy and confusing, I wanted to thank Senator COLLINS for her leadership.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Madam President, I ask unanimous consent that I be allowed to speak for up to 15 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO SENATOR JOHN MCCAIN

Mr. MARTINEZ. Madam President, before I begin my remarks regarding the very difficult situation that has arisen in South America between Colombia and some of its neighbors, I wish to take a moment this morning to congratulate our colleague and dear friend, Senator JOHN MCCAIN, on his outstanding achievement last night, becoming the nominee of the Republican Party for the Presidential election and going forward as the nominee of our party for these upcoming elections.

Senator MCCAIN is an example of resiliency in his life story but also particularly in this election. I am extremely proud to call him a friend, and I certainly wish him the very best as he goes forward. I know all of us in the Senate take great pride in the fact that he is going to be the nominee of one of our major parties. I wanted to note that event and give him my best wishes and congratulations on this very important achievement for him.

VENEZUELA-COLOMBIA CONFLICT

Madam President, I know many of us in this Chamber, across the country, and, frankly, across the Western Hemisphere and the world are watching with concern the reports about the situation developing between Colombia and Ecuador and the complicating elements to it brought on by Venezuela.

This past Saturday, Colombia conducted an antiterrorist operation. The Government of Colombia does this on an ongoing basis because Colombia has been attacked and under siege by a group of people who seek the overthrow by violence of that Government. So as they often do, this Saturday, they conducted an operation which required an airplane flying within the Colombian airspace to fire into Ecuadorian territory by only a few feet. Then Colombian troops entered that area to clean out what appeared to be a permanent base camp of the FARC, the Revolutionary Armed Forces of Colombia which has ravaged Colombia for now over 25, 30 years as an illegitimate terrorist organization bent on killing, kidnapping, and maiming. The result of that action was the No. 2 leader of the FARC was killed.

The FARC is the oldest, largest, and best equipped insurgency. As a result of the actions of the Colombian military, with assistance and training from the United States, this insurgency has been lowered in its numbers from the times when it was many thousands. Today it is believed to be between 6,000 and 9,000 strong. It has for decades aggressively sought to disrupt and destabilize the Colombian Government. Its stated goal is none other than ''the violent overthrow of the Colombian Government.''

Let there be no doubt that this is a terrorist organization. They kill, they kidnap, they hold innocent people for ransom while funding all of its violence by actively engaging in narcotics trafficking. We now have learned they do have other sources of funding, and I will get to that in a moment.

Just as Hamas and Hezbollah, the FARC operates by using ruthless terrorist tactics. According to the State Department's most recent Report on Terrorism, the FARC is known to routinely conduct crossborder operations. What they do is they will attack in Colombia. They will kill. They will throw bombs. They will kidnap in Colombia and then retreat conveniently to their borders in friendlier countries, such as Ecuador and Venezuela. Unfortunately, this new development has emerged because Ecuador has allowed its border with Colombia to be a sanctuary for the FARC.

As we continue to receive updates on this situation, we cannot lose sight of the fact that the FARC has repeatedly and violently infringed on Colombia's efforts at stability and democracy and is operating from a neighboring country using it as a sanctuary.

It is the FARC that has declared war against the Colombian people. It is the FARC that has killed and kidnapped thousands of civilians. They have kidnapped teachers, journalists, religious leaders, union members, human rights activists, members of the Colombian Congress, and Presidential candidates.

This organization today is known to be holding as many as possibly 700 hostages. During their reign of terror,

they have held at times as many as 100 American citizens. Today, they are currently holding three American citizens: Mark Gonsalves, Keith Stansell, and Thomas Howes. They have been held hostage by the FARC for over 5 years, living in subhuman conditions in the jungle, chained to trees. This is the fate of three Americans at the hands of the FARC.

In December of 2007, the Senate approved a resolution condemning the kidnaping of these three United States citizens and demanded their immediate and unconditional release. It is time that these three Americans be released. Their families have suffered long enough. It is time that the FARC be called by the international community to end their reign of terror.

I believe Colombia has had no choice but to continue to confront this aggression led by the FARC by military means. The antiterrorist strike of this past Saturday resulted in the death of Raul Reyes, a well-known senior leader of the FARC—No. 1, maybe No. 2.

So who was Raul Reyes? He was a notorious and ruthless criminal who had been long sought by our Government and the Government of Colombia. He is on the FBI's most wanted list. He is on Interpol's most wanted list. Since May of 2007, Reyes has been listed on the U.S. Department of the Treasury's foreign narcotics kingpin designation list, and in March of 2006, Reyes was among 50 FARC members indicted by the Department of Justice on drug and terrorism charges. So until his death, he was a fugitive of American justice. He was wanted by the Colombian Government on more than 100 criminal charges, including more than 50 homicides, and his actions should be condemned by all of us and by the international community.

Among the items retrieved by Colombia during the antiterrorist strike, among other things, was Reyes's laptop. What a trove of information it appears to have yielded. I have received copies of some of the documents recovered from the laptop, and they show a consistent pattern of communication and cooperation among Venezuela and the FARC, among the Government of Ecuador and the FARC, President Correa sending personal communications and his foreign minister to meet with Mr. Reyes; this avowed terrorist, this criminal of international justice meeting with a foreign minister, dealing as if he were a head of state.

A copy of one letter recovered from a senior leader of the FARC to Chavez states that ''it is important for his government and the FARC to maintain close ties'' to ensure the success of their efforts. And part of the report obtained from these computer files indicates that the FARC may have received or was in the process of receiving as much as $300 million in financial support from Venezuela.

We know that the Government of Venezuela, while its people are suffering shortages of goods, while the people are having to endure rationing and lines to get foodstuff for their children, this Government, now awash in petrodollars, is utilizing its funds, as we have now seen through indictments in the Southern District of Florida, to meddle in the elections of other countries by sending cash, and now to meddle in the peaceful pursuit of Colombia's democracy by giving $300 million to a terrorist organization attempting to overthrow by violence the Government of Colombia.

I wish to address the confrontational behavior of Venezuela regarding this situation which happened between Ecuador and Colombia. I am not sure what Venezuela's business is in this matter. Venezuela's leader Hugo Chavez has decided to take an aggressive stance. He has threatened Colombia with military action and has amassed troops along the Venezuela-Colombia border. That is at the complete opposite end of the country. The Venezuela border has nothing to do with the Ecuador and Colombia border. He is attempting to divert international attention from the very embarrassing facts that are being yielded from the computer files that have been found. He is trying to divert national and international attention from the suffering of his own people as a result of his mismanagement of their economy, as a result of his mismanagement of the wealth he is obtaining through oil.

He has no role in this bilateral matter between Ecuador and Colombia, and yet he is attempting to derail any efforts of resolution, including the ongoing negotiations of the Organization of American States. In fact, my colleague Senator DODD clearly stated yesterday that Venezuela's ''recent troop buildup in the region is an irresponsible and clearly provocative act aimed at inciting further hostility.''

It is good to note that the Government of Colombia has used restraint. They have not deployed troops. They have simply been going through computer files learning the truth about the relationship between these governments and this illegitimate terrorist group.

It is clear that Venezuelans are growing increasingly disenchanted with their Government's unfulfilled promises and Chavez is trying to exploit the situation with Colombia and Ecuador to distract the world from the shortcomings of his Government's policies. This is an old trick, tried and failed repeatedly in Latin America and elsewhere in the world. It is not working and will not work.

This January, Chavez began calling for removal of the FARC from the terror lists of Canada and the European Union. Chavez has stated that the FARC is not a terrorist group, claiming incomprehensively that they are a ''real army.'' he says they are a ''Bolivarian'' army that follows the spirit of the South American liberator Simon Bolivar. Nothing could be further from the truth. These claims are completely divorced from the reality of what the FARC is and what they represent to the Colombian people and to the region.

In recent testimony, the Director of National Intelligence Mike McConnell told us that ''. . . since 2005, Venezuela has been a major departure point for South American—predominantly Colombian—cocaine destined for the United States market and its importance as a transshipment center continues to grow.''

It is clear that Venezuela is not a part of the solution; it is a part of the regional narcotrafficking problem.

Venezuelan ports are increasingly becoming the departure points of choice for Colombian traffickers. According to both the National Intelligence Center and Office of National Drug Control Policy, private aircraft are increasingly choosing to route cocaine shipments from Venezuela to the island of Hispanola rather than relying on go-fast boats from Colombia because Venezuelan complicity makes it safer to do it that way.

It is also well known that both trafficking groups and guerrilla groups enjoy safe haven inside Venezuela along the border with Colombia.

Chavez has acknowledged his sympathy and support for the FARC, despite the fact that they are also currently holding upwards of 200 Venezuelan nationals as hostages. The Colombian people are well aware of the barbaric practices of the FARC, and yet they are resilient people.

On February 4, a few weeks ago, millions of Colombians peacefully took to the streets in Colombia to demonstrate against FARC's violence and terrorism, demanding ''No more FARC.''

Countless others joined similar peaceful demonstrations in the United States and around the world. An example of their resolve in the face of ruthless FARC violence is Colombia's Foreign Minister, Fernando Araujo. I have had the privilege of meeting the Foreign Minister. He has been serving his nation capably for now almost a year, after bravely enduring 6 years of captivity at the hands of the FARC and surviving a miraculous escape in February of 2007. Minister Araujo is a symbol of freedom and hope for a better future without terrorism.

The killing of Raul Reyes is another success of the Colombian Government's increased efforts to combat terrorism, investigate terrorist activities inside and outside Colombia, seize ill-gotten assets, and bring terrorists to justice.

This operation is a testament to Colombian Armed Forces' professionalism and competence and a success for the Colombian Government's efforts to combat terrorism, investigate terrorist activities inside and outside Colombia and to seize assets and to bring terrorists to justice.

President Uribe is a committed leader and our country will and should continue to support his mission. This

President was reelected overwhelmingly by his people and today enjoys an 80-percent approval rating among the Colombian people.

President Bush could not have been clearer yesterday when he stated that:

America fully supports Colombia's Democracy [and that we will] firmly oppose any acts of aggression that could destabilize the region.

In the Congress, the best way we can show our support for democracy and the need for stability in Colombia is by ensuring the passage of the Colombian Free Trade Agreement.

President Uribe has consistently made clear that passage of that agreement will show the Colombian people democracy and free enterprise will, in fact, lead to a better life for all Colombians.

The Colombian people and President Uribe have made clear their commitment to a hopeful future of a stable democratic and economically thriving Western Hemisphere. The FARC is our common enemy, and we owe our continued support to Colombia as it carries this shared fight against terrorists and drug traffickers.

The Colombian Ambassador was clear in his comments at the OAS yesterday. His country ''has not sent troops to their borders.''

He further stated their goal is to resolve this situation with continued discussion and cooperation.

As we are ourselves fighting a global war on terror, we have to understand terrorism anywhere is terrorism that we need to be against. Groups that rely on violence and terror are not acceptable in the world in which we live. The FARC's time has come. It is over. It is time for us to clear the cobwebs of confusion about this group, to not allow Chavez to make this group into something other than what they are, a group of terrorist killers, kidnapping and maiming people for the sake of their misguided political aims, which are to destabilize the democratically elected Government of Colombia.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY.) The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business on an issue that is very important to my State.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIR FORCE TANKER CONTRACT

Mr. BROWNBACK. Mr. President, I thank my colleagues for allowing me a few minutes to speak about the tanker contract going to the Airbus-Northrop Grumman consortium. I am still worked up about this; I am going to be worked up about this for some period of time. This is a big impact contract. I want my colleagues to think for a minute about this, about us subcontracting out the building of our ships, our ships to the lowest bidder around the world.

If we said: OK. We are going to start building our ships wherever we can get the cheapest hulls for them, do you think we would be building them in the United States?

OK. I think other countries or other countries' governments would say: Well, now, here is a good deal. We want to be in shipbuilding, and so we are going to subsidize our way into this.

Do you not think we probably would end up building these ships in other places overseas? What we have taking place in this country is Airbus, which is subsidized with aid by European governments, is going to build basically these tanker planes and is going to fly them over here and then they are going to be fitted or militarized in this country. That is what is going to take place.

They are going to fly the whole plane over here and then militarize it. Now, is this a European plane or is this an American plane? This is an Airbus plane. It is going to be Airbus components. It is going to be built, it is going to be manufactured, it is going to be done there.

I ask my colleagues to think about this. Is this the right thing we want to do? Do we want our tankers and then our AWACS and our ships and our submarines, bid them out to the lowest bidder? In this process, my guess is we will have a lot built in Asia and South America and Europe and subsidized by governments.

I do not think this is the way we want to go. So before we move forward on this issue, I think we need to ask and have answered several questions. No. 1, what is the economic impact to our Treasury of outsourcing our military construction? These jobs are going overseas. That has an impact to our Treasury of the jobs being overseas instead of here.

Let's have a real, true economic picture of this taking place. I think we ought to have that. No. 1, I think we need to know the direct and indirect amount of the subsidization Airbus is giving to this plane to be able to get this contract. Because here we have a 40-percent bigger plane being produced by Airbus, at a substantially lower price than the Boeing aircraft, and they are not beating us on labor costs. They are certainly not beating us on exchange ratios, given the dollar to the Euro ratio.

There is no way to do this without heavy subsidization, either direct or indirect. You cannot do this without some subsidization. OK. Fine, let's find out what the number is, and then let's start where I guess we are going to have to compete on a subsidy, we compete on subsidization. But I think we need to know that number before we go forward with a multidecade, $40 billion contract of made-in-Europe tankers.

No. 3, I think we need to know our security vulnerability before we make those tankers overseas. I think there is a very real prospect that in the future, if we are involved in supporting the Israelis, and the Europeans do not like it, they want to go more with the neighbors in the neighborhood, they say: OK, we are not going to give America flyover rights over Europe, and also we are not going to sell them spare parts on these tankers. I think we need know what the security vulnerability is before we go forward with this as well, and that needs to be appraised.

Finally, I would urge and we are starting to look at ''Buy American'' provisions in our military contracts. I am a free-trade person, but I think you ought to compete on an equitable playing ground, and that if they are going to subsidize, then we have to subsidize if they are; otherwise, we force them not to subsidize.

Also, on defense, we should not be dependent upon foreign governments for our Defense bill's military construction, particularly when they depend upon us for a lot of the security, and then they get the big contract to build the equipment.

I do not think this is fair at all. I do not think it is the right way for us to go. I think we have several vulnerabilities. I think if you look at a full economic picture of shooting these jobs overseas, of what that does to our Treasury versus buying a cheaper, subsidized European plane versus buying an American plane, where you are having your full costs, but your workers are here and they are paying taxes here, my guess is to the Federal Treasury it is a net positive for us to build them here, even if the plane costs us a bit more because we do not subsidize the price of the plane such as the Europeans are.

I have been in this fight previously on civil aviation, where the Europeans subsidized their way into that business. Now they are doing it in the military contract area. I do not think we ought to do it, particularly on a contract that is going to last decades.

So these are several questions we are going to be working on along with my other colleagues. I would hope we ask these big questions and get them answered before this big contract is let.

Are we are starting to build our defense industry in Europe rather than in the United States? I wish to thank my colleagues for allowing me to speak on this issue.

I yield the floor.

Mr. PRYOR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4105, AS MODIFIED

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to set aside the

pending amendment and call up my amendment, No. 4105, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Minnesota [Ms. KLOBUCHAR], for herself and Mr. MENENDEZ, proposes an amendment numbered 4105, as modified.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 3, beginning with line 16, strike through line 3 on page 4, and insert the following:

''(a)(1) 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—

''(A) $88,500,000 for fiscal year 2009;

''(B) $96,800,000 for fiscal year 2010;

''(C) $106,480,000 for fiscal year 2011;

''(D) $117,128,000 for fiscal year 2012;

''(E) $128,841,000 for fiscal year 2013;

''(F) $141,725,000 for fiscal year 2014; and

''(G) $155,900,000 for fiscal year 2015.

''(2) From amounts appropriated pursuant to paragraph (1), there shall shall be made available, for each of fiscal years 2009 through 2015, up to $1,200,000 for travel, subsistence, and related expenses incurred in furtherance of the official duties of Commissioners and employees with respect to attendance at meetings or similar functions, which shall be used by the Commission for such purposes in lieu of acceptance of payment or reimbursement for such expenses from any person—

''(A) seeking official action from, doing business with, or conducting activities regulated by, the Commission; or

''(B) whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties.

Ms. KLOBUCHAR. Mr. President, as a member of the Commerce Committee, I appreciate the leadership of Senator PRYOR on this bill and the work all of us did, as well as Senator DURBIN and Senator NELSON. I believe this is landmark legislation. I have been to this floor many times to talk about this bill, how important it is to have that Federal mandatory lead standard, as well as the recall provision our office was instrumental in writing.

I think it is a very good bill. There is one change that I think would make it even better. This is an amendment Senator MENENDEZ and I have.

The Consumer Product Safety Commission Reform Act is not just about increasing staffing, funding, and oversight of the Consumer Product Safety Commission, it is also about making the Commission more accountable to the public.

The Commission must make consumer safety an absolute priority. But it must also perform its duty outside the influence of the people whom it is supposed to regulate, outside the influence of the manufacturers, the retailers, the lobbyists, and the lawyers.

In November 2007, however, an appalling picture of the CPSC came to light. What you have to understand is when we found out about this travel, hundreds of trips and thousands of dollars of travel that had been paid for by the industry that this Commission was supposed to regulate, we were in the midst of this bill, we were in the midst of looking at recalls, now up to 29 million toys that have been recalled.

We were in the midst of finding out about kids who went into a coma from swallowing an Aqua Dot that turned out was laced with the date rape drug. That is what we were doing when we found out that for years the head of the Consumer Product Safety Commission had been traveling on the consumer dime, on the dime of the industries they are supposed to be regulating.

Through an article in the Washington Post, we learned that thousands of dollars' worth of travel had been taken by the current Consumer Product Safety Commission Chairwoman Nord and her predecessor, Hal Stratton.

Since 2002, Chairwoman Nord and former Chairman Stratton took 30 trips—30 trips—on the trade associations', manufacturers', lobbyists' or lawyers' dime, totaling nearly $60,000. So that is 30 trips totalling nearly $60,000.

In one particularly egregious instance, the Consumer Product Safety Commission Chairman accepted $11,000 from the fireworks industry for a 10-day trip to China. The claim was the industry had no pending regulatory requests but had a safety standard proposal before the Commission. Now, you try to tell this to the moms whom we were with yesterday, of those kids who were swallowing toys, one that was laced with lead and one had morphed into the date rape drug. You tell them they had the proposals before them—and they were not pending regulatory requests but they were proposals pending—they would see through this.

This kind of abusive Government practice must end. With this amendment, the amendment that Senator MENENDEZ and I have offered, no Commissioner or employee of the Consumer Product Safety Commission can accept payment or reimbursement for travel or lodging from any entity with interests in their regulations. So it simply means people and the companies the Consumer Product Safety Commission is regulating cannot pay for their trips to China or their trips to Florida or to California. It is that simple.

Now, what is interesting about this is that many agencies, including the Securities and Exchange Commission, the Food and Drug Administration, the Federal Communications Commission, and the Federal Trade Commission, have similar rules restricting industry-sponsored travel. CPSC doesn't have that rule. As the Senate considers this sweeping reform in consumer product safety, we believe we should be free of any appearance of impropriety or undo influence of regulated industries on the CPSC.

Senator MENENDEZ has a bill, a very good bill—and I am a cosponsor; many people are cosponsors—that extends this to all agencies. And I hope very much the Senate will consider this bill very soon. I am so pleased we are working together on this amendment, which is focused on the Consumer Product Safety Commission. Leaving the Commission vulnerable to charges of impropriety is simply unacceptable, especially at a time when the public has completely lost faith in the CPSC's ability to regulate the industries they are supposed to be watching.

Ethics is at the core of government and democracy. Without ethical leaders, our entire system fails. Ethics is woven into the very fabric of how government works, and ethics reform goes to the very heart of our democracy, to the public trust and respect that is essential to the health of our Constitution.

Like you, Mr. President, I came to Washington to bring ethical government back to the city, and I am so proud that shortly after we joined the Senate, the most sweeping ethics reform legislation since Watergate passed the Senate and became law. But as seen by the actions of the Consumer Product Safety Commission, our job does not stop with one law. We must be resolute that ethical government is not optional, it is not voluntary, and it is not limited to elected officials.

With this amendment, we will send a signal to the Commission that their priority is keeping consumers safe. Their priority is not going on trips financed by the people they are supposed to regulate. Their priority is looking out for those two kids who almost died from those toys, or the family of little Jarnell Brown, that is still watching what is happening here today—this little 4-year-old boy who died when he swallowed a charm that was 99 percent lead. That is their job, not going on trips paid for by the fireworks industry.

It is my hope that my colleagues will support a travel ban amendment to the Consumer Product Safety Reform Act of 2008. I am very pleased to be sponsoring this amendment with my colleague from New Jersey, Senator MENENDEZ.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I am proud to stand here with the distinguished Senator from Minnesota to offer an amendment that prohibits members of the Consumer Product Safety Commission from taking trips paid for by the industries they regulate.

Not long ago, this body overwhelmingly voted to prohibit Members of Congress—Members of this body—from taking trips sponsored by lobbyists—

from taking trips sponsored by lobbyists. That is what there was an overwhelming bipartisan vote for. There is absolutely no reason members of the Consumer Product Safety Commission should not be held to the same high standard, particularly given the outstanding number of products that were recalled last year because they were deemed unsafe for American consumers to use after they were placed on the shelves in our stores, bought by our families, and used by our children.

Perhaps most disturbing, the most common victims of these regulatory failures were children—children who played with toys and slept in cribs that the Consumer Product Safety Commission allowed to come to market, children who were seriously injured as a result.

Last year, we saw a toxic toy shipped in from China laced with lead paint that could cause permanent neurological damage or death. We saw car seats dump out the kids who sat in them. We saw beads that contained a chemical that could put children into a coma if swallowed. We saw cribs that would fall apart if an infant pulled on their pieces.

This year is shaping up to be just as tragic. In January, there was a recall of toys with magnets that could cause fatal intestinal blockages if swallowed. Last month, we had a scare about children's sketchbooks coated with potentially fatal levels of lead paint.

So the question Americans are asking themselves is, isn't somebody supposed to be watching to make sure this doesn't happen? And the answer is, absolutely. That is the very mission of the Consumer Product Safety Commission, to make sure products sold in the United States are safe for American consumers, safe for our families. But members of the Consumer Product Safety Commission were busy doing other things.

There are a lot of problems plaguing the Commission, and I will return to the floor to talk in detail about many of them another time. I certainly appreciate the work that has been done by the distinguished chair of the committee and the ranking member in moving a bill that I think goes a very long way towards achieving the goals of knowing that in America our families will be safe from the products that are put on our shelves, and for this I commend them. However, despite the progress we have made under the leadership of Senator PRYOR, there are still issues to be resolved. Most notably, we see that officials of the Consumer Product Safety Commission, tasked with protecting American consumers, were too busy taking trips sponsored by the very companies they were supposed to keep an eye on.

Mr. President, we should never again have to worry that our children are playing with lead-filled toys while the people who should be looking out for them are hopscotching around the world with corporate bigwigs. This is toxic travel, and we have to put an end to it. The American people deserve to have objective, professional safety inspectors, not wined and dined, pampered corporate houseguests. We need to make sure these product gatekeepers are looking out for one interest, and one interest only: the well-being of the American people.

That is why Senator KLOBUCHAR and I are offering this amendment: to prohibit product regulators from taking trips sponsored by the industry they regulate. I think Americans listening across the landscape of our country would say that is just common sense. Regulators should never be indebted to those they regulate. They should never be compelled to let a product slip by as thanks to the great golfing they shared or the fabulous trip they took, while children suffer as a result.

So let me close by thanking my colleague, Senator KLOBUCHAR, a member of the committee, for taking the lead in the committee to improve the safety of the products that end up in the hands of our children. It has been a privilege to work with her on this amendment. And I certainly hope our colleagues will join us in saying, as they did in setting the high standard for every Member of the Senate in prohibiting travel paid for by lobbyists, that those who are there to protect the very essence of our safety and our lives and those of our families should live to no less a standard.

I urge my colleagues to support the amendment.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, let me begin by commending the Senators from Minnesota and New Jersey for bringing forward this amendment. Many of us, I think all of us, were troubled by the press reports last fall that suggested that the current and previous Chairman of the Consumer Product Safety Commission accepted reimbursement from entities that they were regulating when they were traveling. For example, trade associations, manufacturers of products, and other entities paid for trips that totaled nearly $60,000.

The Klobuchar-Menendez amendment is intended to make clear that taxpayer money should be used for that travel in order to remove the appearance of a conflict of interest that arises when the members of the Commission receive reimbursement for travel from regulated entities.

I do want to make clear that the Commission's ethics officers reviewed these trips and found that there was no conflict of interest. But the fact is, there is an appearance of a conflict of interest. Receiving reimbursement from regulated entities creates the appearance that the decisions that are subsequently made by the Commission members may be tainted by a conflict of interest. The fact is, this kind of appearance of a conflict of interest shakes the consumers' confidence in the impartiality of decisions that are made by regulatory agencies.

Now, I do want to emphasize that these trips may well have been justified. Governmental officials cannot and should not make all of their decisions within the confines of their offices. They can learn a lot about the issues by taking official travel, by going out into the field, by reviewing a manufacturer's procedures, by traveling to a port, by undertaking completely legitimate travel. But at least the appearance, and in some cases an actual conflict of interest, arises when this travel is subsidized or paid for totally by the regulated entity. So I view this as a good government amendment, an amendment that will help to restore the confidence of consumers, of the public, in the regulatory process.

I also want to make clear to some of my colleagues, particularly on my side of the aisle, that the amendment put forth by the two Senators does not increase the budget of the Consumer Product Safety Commission beyond the amounts authorized in the underlying bill. Instead, what their amendment would say is that up to $1.2 million of the budget of the amount appropriated can be used for the Commissioners' travel in lieu of the Commissioners' accepting payment or reimbursement for travel from any person or entity that is seeking official action from, doing business with, conducting activities regulated by, or whose interests may be substantially affected by decisions made by the Commission.

This is a commonsense amendment. It will advance the public's confidence in the decisions that are made by this important regulatory Commission. It is very much in keeping with the bill that we put forth, and I believe we will be able to work out something on this amendment later in the day.

I do want to point out to my friends on the other side of the aisle that there is also an amendment pending by the Senator from Texas, and I believe it is the managers' intent to try to package a series of amendments at the same time. But for my part, I think this amendment makes a great deal of sense, and I commend the two Senators for bringing it forward.

Mr. President, let me also take this opportunity to thank the manager and author of the bill, Senator PRYOR, for his thoughtful comments earlier this morning about my contributions to the bill. It has been a great pleasure to work with Senator PRYOR on this bill. We have worked together on a host of issues, and I commend him for his leadership in helping to ensure that the toys and other consumer products that reach our store shelves are as safe as they can be. In particular, his commitment to making sure the children of America are receiving safe products is commendable.

So I thank him for his kind words, and it has been an honor to work with him on this bill.

I thank the Chair.

Mr. PRYOR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISCAL SECURITY

Mr. ENZI. Mr. President, I rise to discuss my concerns with the fiscal security of our country. This week we are considering the fiscal year 2009 congressional budget resolution in the Budget Committee. As stewards of the public trust, the Congress needs to make hard choices necessary to leave a fiscally and economically sound country to our children and grandchildren. Unfortunately, the easy road is where we have already trod. The budget we will be working on today is another slip of paper in a trail leading this country to financial ruin. We simply cannot sustain the current level of spending which is spiraling out of control. I know that crafting an annual budget is a difficult task, but it is important. This document is a vital part of the operation of Congress. It sets a fiscal blueprint that Congress will follow for the year and establishes procedural hurdles when these guidelines are ignored. As stewards of the public trust, we owe to it all American taxpayers to use the funds they provide us in the most effective and efficient means possible. If we do that, we provide future generations with a strong and secure U.S. economy. If we don't, then the children of America's future will be waking up to something very unpleasant.

As an accountant, I particularly enjoy this opportunity to look at the overall spending priorities of our Nation. Fiscal year 2009 will be another tight year for spending. It will not be good enough to have another pass-the-buck Democratic budget like the one we saw last year, which I did not support. If we consider another budget this year that is tax and spend, more and more taxes to pay for more and more spending, I will vote against it again. We must begin this year's debate on a fiscal year 2009 congressional budget resolution with a clear understanding of our responsibilities. We cannot accept a repeat of last year's empty promises, of reducing the debt and reforming entitlements.

What actually happened is disgraceful. Last year's budget raised taxes $736 billion, the largest tax increase ever, hitting 116 million people. If we follow this year's proposed budget, many of our constituents will have to dig into their pockets starting in 2011 and find an additional $2,000 to pay Uncle Sam on top of what they pay in taxes now. That ought to be a wake-up call. I travel around Wyoming most weekends. I can easily take a poll of my constituents. I am not running into anybody who thinks they are paying too little in taxes. If they think their taxes are going to go up, knowing that the Federal Government is receiving more in revenues than it ever has in the history of the United States, they are upset. So looking at a $736 billion tax increase will upset them. We are going to be discussing this as it gets closer and closer to April 15. That is the day they are particularly cognizant of what they are paying in taxes.

Last year's budget increased spending by $205 billion. Last year's budget grew our national debt by $2.5 trillion. Last year's budget ignored entitlement reform. There was no attempt to tackle the $66 trillion in unsustainable long-term entitlement obligations that face us. Well, not us; it is our children and grandchildren. But we will be the beneficiaries of that. That is not fair. Americans want to know what we can do to help them, not hurt them. Empty promises can no longer be made.

I want to highlight a recent editorial from the Wall Street Journal that talks about spending promises being made right now. I ask unanimous consent that the editorial be printed in the RECORD.

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

GOVERNMENT SHOWDOWN

(By Kimberley A. Strassel)

Hillary Clinton and Barack Obama were midway through a joint ode to big government in their last debate when a disbelieving Wolf Blitzer interrupted. Were they both really going into a general election proposing ''tax increases on millions of Americans,'' inviting the charge of tax-and-spend liberals?

''I'm not bashful about it,'' said Mr. Obama. ''Absolutely, absolutely,'' chimed in Mrs. Clinton.

In the middle of an election that is supposed to be about ''change,'' the country is instead being treated to the most old-fashioned of economic debates. The fun of it is that neither side is being shy about where it stands, which has only sharpened the old choice: higher taxes and bigger government, or more economic freedom and reform. With health care, entitlements and education all on the agenda, the stakes are huge.

We don't have a Democratic nominee yet, but in terms of this battle it matters little. Mrs. Clinton and Mr. Obama both dropped major economic addresses this week, and their most distinguishing feature was that they were nearly indistinguishable. Just ask Mrs. Clinton, whose campaign complained that Mr. Obama had copied her best ideas (even as it simultaneously complained he offered no ''solutions''—go figure).

Republican frontrunner John McCain certainly sees no differences, and his frontrunner status has allowed him to begin training his economic guns on the Clintbama approach. The battle lines are, as a result, already taking shape.

This is going to be an old-fashioned fight over taxes. Whatever they may have said on CNN, Mr. Obama and Mrs. Clinton aren't fool-hardy enough to embrace wholesale tax hikes. Like John Kerry and congressional Democrats before them, both are instead proposing raising taxes on only ''the rich.'' Both campaigns made an early bet that the Republicans'' broad tax-cutting message had gone stale, and that Americans were frustrated enough with rising healthcare and education costs that they'd embrace redistributionist tax policies.

Maybe. But the economic landscape has changed from last year and even frustrated Americans have grown jittery of tax-hike talk. Mr. Obama has already shifted, and started placing more emphasis on his promise to return some of his tax-hike booty to ''middle-class'' Americans via tax credits. Both Democrats are already justifying their hikes by pointing out that Mr. McCain voted against the Bush tax cuts in the past.

Mr. McCain's challenge—which he's already embraced—is to keep the tax focus on the future. His campaign is going to play off polls that show the majority of Americans are still convinced that political promises to soak the rich translate into higher taxes for all. He will use gobs of other proposed Democratic tax * * * Grand Canyon proportions. Democrats have presented themselves as the party of fiscal responsibility of late, a message that contrasted well with spendthrift Republicans in the 2006 elections. The Democratic presidential candidates will struggle to make that case, given both are inching toward the $900-billion-in-proposed-new-spending mark.

Mr. Obama's wish list for just one term? Some $260 billion over four years for health care. Another $60 billion for an energy plan. A further $340 billion for his tax plan. A $14 billion national service plan. A $72 billion education package. Also, $25 billion in foreign assistance funding, $2 billion for Iraqi refugees and $1.5 billion for paid-leave systems. (I surely forgot some.) Mr. Obama says he'll pay for these treasures by stopping the Iraq war and taxing the rich. But both Democrats have already spent the tax hikes several times over, and even a Ph.D, would struggle with this math.

Making a message of fiscal responsibility harder is Mr. McCain's reputation as a fiscal tightwad, and his role as one of the fiercest critics of his own party's spending blowout. Watch him also expand this debate to earmarks, as he's already done with an ad ripping into Mrs. Clinton for her $1 million request for a Woodstock museum. Mr. McCain's earmark requests last year? $0.

Mr. Obama's and Mrs. Clinton's economic speeches this week were noteworthy for sweeping government initiatives, straight out of FDR-land. Both propose a federally backed ''infrastructure bank'' that would finance projects with subsidies, loan guarantees and bonds. Both are vowing to ''create'' five million ''green-collar'' jobs in the environmental sector. These are in addition to giving government a huge new health-care role.

This is the area where Mr. McCain has the most work to do in drawing distinctions. He is already hitting both Democrats for their desire for ''bigger government.'' But the Arizonan's challenge will be explaining to voters why more government-run health care is bad for their pocketbook, why school choice will do more than more education dollars. Further, he's going to have to work through his own hit-and-miss instincts, which in the past have led him toward big government initiatives like a climate-change program.

This will be an old-fashioned debate about the role of business in America, whether it will be a federal cash cow and punching bag, or its tax rates lowered so it can compete with the rest of the globe. This will be an old-fashioned debate about trade, which will, with any luck, finally explore the vagaries of

the growing ''fair trade'' movement. This will be an old-fashioned debate about the minimum wage, and its ability to kill jobs.

None of this is to say this economic battle won't encompass ''change.'' If a Democrat wins the general election, things will certainly look different, starting with your tax bill. And if * * *

Mr. ENZI. The majority should be held responsible for its actions. We need to prepare a budget for our Nation that reduces national debt, promotes honest budgeting, and encourages true economic growth by reducing energy costs, reducing taxes, and reducing health care costs. I do believe that the first priority of any nation must be the health of its people. Every American should have access to high quality health care at affordable prices, and Congress must work with State governments and the private sector to achieve that goal. One way Congress can curtail this rapid rise in health care costs is to use health information technology as a cost-saving measure. I hope we can work across party lines to enact health IT legislation this year and to aid in addressing the fiscal challenges associated with spiraling costs and unacceptable levels of medical errors.

I wonder if the American people realize that when the baby boomers are fully retired and receiving benefits, the cost of supporting that generation through Medicare, Medicaid, Social Security will be so high we will have no money available for our Federal Government to do anything else. We will have no money for national defense, no money for education, no money for transportation infrastructure, not to mention a whole bunch of other things we are intricately expecting. That is unacceptable. Our country's future cannot sustain the cost.

This year, again, the President's budget proposes to reduce the rate of growth in one of our most expensive entitlements, which is Medicare. The President has sent a legislative proposal to Congress to meet the requirements laid out in the Medicare Modernization Act passed in 2003, thus providing more funding for the general fund that pays for other government programs such as defense, education, and infrastructure. What reception did it get from our friends in the majority? Unfortunately, we have heard that the proposal sent by the administration is dead on arrival and the administration has trumped up a phony crisis in Medicare. A phony crisis? There is nothing phony about it. We are standing at the edge of a tsunami as the huge baby boomer generation, my generation, reaches Medicare and Social Security eligibility.

The President's Medicare proposal is a good starting point; $34 trillion of unfunded liability is certainly not a phony crisis in Medicare. We must address this serious funding constraint head on.

Last year the majority also promised to abide by pay-go rules and actually pay for all the new spending to get America on the right track economically. As far as I can see, this has not happened. In fact, pay-go enforcement rules have been so weakened and thwarted through a variety of different mechanisms and smoke and mirrors that we ended up with billions and billions in new spending that is not offset. It is time to bite the bullet. We need to limit increases in discretionary spending by Federal Government agencies. This is necessary while we are also taking extreme care to keep our Nation safe and secure. I reiterate that we must take seriously the warnings we have heard from the General Accounting Office and the Congressional Budget Office about Federal expenditures spiraling out of control. We need to make the budget procedural and process changes to directly address this problem.

One of the many procedural reforms I believe would promote fiscal responsibility and safeguard the Nation's economic health is a 2-year budget process. In fact, in his budget for fiscal year 2009, the President once again proposed commonsense budget reforms to restrain spending. He has several recommendations, including earmark reforms and the adoption of a 2-year budget for all executive branch agencies in order to give Congress more time for program review. While we may negotiate on the details, we should implement these overall recommendations. The budget process takes up a considerable amount of time each year and is drenched in partisan politics while other important issues are put on the back burner. It should not be this way. The current Federal system, frankly, is broken. No, it is smashed. It is in shambles. We only have to look at the mammoth spending bills that nobody has time to fully read or understand before they are glibly passed into law and the hammer comes down on another nail in the coffin of good budgeting.

Last year's omnibus appropriations bill is Exhibit A in my prosecution of a system that promotes fiscal recklessness. It is a serious problem that must be fixed. The current budget and appropriations system lends itself to spending indulgences this country cannot afford. It should be scrapped for a system that is a proven winner.

To divert slightly and remind us of some of what happened last year as we were going through the process, we passed authorization bills around here which are supposed to set the grand parameters for what we are doing. One of those grand parameters involved the AIDS bill, passed unanimously through this body and through the other body and signed by the President. We set up a formula for AIDS help. That formula said the money will follow the patient. Good concept, good enough for everybody to agree it was the way to go. Then last year we had to vote on a $6 million proposal for San Francisco that stole money from 42 other cities in large amounts and smaller amounts from many other cities. We defeated that because we had set up a formula through authorization. But when the final omnibus bill came out, it had that same $6 million with the same theft put in it. We didn't have an opportunity then because $6 million out of $767 billion is not enough to worry about voting on, I guess. And we don't vote on it. But it still wound up in there.

We need to do something with our system of budgeting, and we need to do something about earmarks as well. There is a crucial need to enact procedural and process changes that will enable us to get this country on the right budgetary track. We simply cannot risk the economic stability of future generations by continuing to get by with the status quo. The risks are far too great.

Make no mistake: A change to a new budget process will not be easy. There are very strong feelings on both sides of this issue. But as responsible legislators, we need to come together to begin the difficult but necessary process of change. I, for one, intend to continue to work with my colleagues who are also committed to make the hard choices to safeguard our economic and fiscal future.

A nation that cannot pay its bills is a nation that is in trouble. If it is a repeat of last year, the fiscal year 2009 congressional budget resolution could mortgage the future of our children and grandchildren and require huge tax increases for all Americans. I welcome the opportunity to consider our Nation's spending priorities, keeping in mind we need to make tough choices and sacrifices in order to keep our country strong and healthy.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I would like to talk about a provision in the Consumer Product Safety Commission Reform Act that deals with a database to make sure information about dangerous products is available to the public.

Here again, this has changed through the process. We have tried to build in safeguards. I want to talk about those. We have tried to find something that is balanced, that provides information, but also has some filtering so we make sure erroneous information is not disseminated. But the goal of this provision is that the public has the right to know when products are dangerous.

We have many examples—and I will go through some of these right now. But I promise you, for every one example I am going to give, there are probably 100 others I could talk about—we have many examples of dangerous products that are being sold and used while the company and the CPSC know of the risks of the product. But because of the inability for CPSC to get a mandatory recall or the inability of them to work out the terms with the manufacturer in many cases, the public does

not know about these dangerous products. So what happens is that the product continues to be sold and continues to be used when the Government and the manufacturer know it is a dangerous product.

Let me start with this one statement. This is from OMB Watch. It says: ''CPSC estimates the number of toy-related injuries''—just toy-related injuries—''jumped from about 130,000 in 1996 to about 220,000 in 2006—more than 600 injuries every day.''

Now, this is over a 10-year period: to go from 130,000 injuries—we are not talking about incidents; we are talking about injuries—130,000 in 1996 to 220,000 in 2006. We are not talking about isolated incidents where there might be the occasional toy or the occasional product that might cause a problem. We are talking about 600 injuries every day—600 injuries, not incidents—to children. This is just in toys. This statistic is just for toys. So, again, we are not talking about things that are in isolation that do not matter in the real world. This bill matters in the real world.

The next chart I wanted to show you is the recall process. This is a flow chart about recalls. My colleagues can see how complicated and how long and how many steps there are in the recall process. Listen, it is not that important about what each and every step is. But this is how it works. You can see, for a product to be recalled, there are a lot of hoops that have to be jumped through. Those hoops take time.

There again, as I mentioned just a moment ago, we know of many instances. I will give you one right here. There was a product called Stand & Seal, which was a product that, apparently, you spray on tile to seal the tile. That product was dangerous, was actually killing people, and definitely injuring people. The company knew about it, the CPSC knew about it, but the public did not know about it.

What happened was, in the one incident I am most familiar with—again, there are many others—in the one incident I am most familiar with, Home Depot continued to sell this product not knowing that it was a dangerous product, not knowing it was injuring people, not knowing it violated U.S. safety standards. They were selling it to the public.

Well, at the end of the process, guess what happens. Home Depot gets sued. They get sued for selling a product for which they had no knowledge of the problem. The CPSC knew, the Government agency knew about the problem, but the general public did not. The retailer did not know. So part of the reason we get into that situation is because of this long recall process.

Now, we are going to address a lot of this in the legislation. We are going to give the CPSC the ability to move through this process much quicker. We are going to give them the leverage they need to make decisions. Right now, the manufacturers, unfortunately, in many instances, have the leverage, not the CPSC. So we are going to try to address some of this.

But that is not even what I am talking about because I want to talk about the database. The database provision that is in the legislation, we believe, is a very important provision. It is very balanced. We have tried to find that right balance.

Let me, if I can, talk about one specific toy which has actually received a lot of attention nationally because of some of the egregious injuries and the serious problems. This is a toy made by Rose Art, which is a company that makes a lot of toys and crayons and art supplies and lots of other things—a lot of craft kinds of stuff. Rose Art makes a toy called Magnetix. This is the ''Xtreme Combo Flashing Lights Castle.'' Well, you can understand why this would have a lot of appeal to parents and children. Just look at the box. It looks like something that would be fun to play with.

If you can notice on this picture, there are these little silver dots, these little silver balls. Those are magnets. That is how you put this together. You can see right here in the picture, in someone's hand, that little dot. I hope it shows up on television for the folks watching around the country. That is one of those little dots.

The problem with these little magnets is they fall off. They can come loose. In 2007, over 1,500 incidents were reported before the 4 million units of Magnetix were recalled. So we have 1,500 examples of these either falling off or, in some cases, children swallowing pieces with the magnet still attached. The reported incidents included 28 injuries and 1 death.

I do not want to go into the details of this on the Senate floor, but the medical issues that children have to go through when they ingest one of these is not pretty. Again, I do not want to go through that on the Senate floor and turn this debate into a gory example. But, nonetheless, trust me when I say these toys, this Magnetix set—there are many varieties—has caused a lot of hardships for parents and children.

But what do kids like to do? They like to put things in their mouths. They eat things. They suck on things. We know how it is. But this is why we need a database so that people can know what is going on out there. We have 4 million units of this toy that were eventually recalled, but there were over 1,500 incidents reported before the recall. That is 1,500 incidents where parents and grandparents, et cetera—day care centers—had no way of knowing this was a dangerous product. So the database solves that problem.

Again, this is just a chart to run through the timetable. We do not have to spend a lot of time on the details. But in 2003, Rose Art introduced these building sets. They were very popular. By the way, they were on lists for a couple of holiday seasons about the best toy for kids, et cetera, et cetera, et cetera. The retailers loved them because they just flew off the shelves.

We could go through this long process, but you can see the first attempted recall was in March of 2006. That is almost 3 years later. They later had to do another recall, a more comprehensive, clearer recall. They did that in mid-2007. So these were on the shelves for a long time. But I am telling you right now, the parents have no way of knowing these are dangerous until the CPSC does their recall.

One of the things I want my colleagues to understand is that, again, this is not an isolated incident. We mentioned Magnetix. We are not trying to pick on Rose Art. We are just reporting the facts as they exist. But here is Magnetix shown on the chart. There were 1,500 incidents before it was recalled, before the public knew of the problem.

Again, we are not going to go through this, but you can see this next particular product had 679 incidents, this one had 400, this one 278, and on down the line.

My fellow Senators, we could print 10 or 20 or 30 of these charts and go down the numbers. You can see the different types of hazards we are talking about. I am telling you, the evidence is overwhelming that in the legislation we need to fix the CPSC.

So what is the best way for the public to know? Well, I would say the best way for the public to know is to inform the public, give the public some information, let them look at it. I must be candid right now to say we have had a few people—not all. I want to be fair. Not all, but a few people—a few companies in the business community, a few associations that have been opposed to this database idea. They think it will create a hardship. They think it will smear companies. They are concerned about the uncontrolled nature of that.

Well, we keep pointing them to the NHTSA Web site. What we are proposing is not novel. It is not new. It is tested. We have seen it in action for years, and that is the NHTSA Web site, the National Highway Transportation Safety Administration Web site. It looks like safercar.gov might be at least one of the ways to get there. But this is actually a copy of the NHTSA Web site.

When you go to safercar.gov or nhtsa.gov, I guess, you can come up with this page. You can see, it has ''Defects & Recalls.'' You can click on this and find out about the defects and recalls.

Let me walk the Senate through this, if I may, for just 1 minute. Here again, you click on something; you go to this page, you click on ''Search Complaints.'' Here again, we are talking about complaints from consumers and from third parties such as hospitals, day care centers, et cetera, who can put their information on a Web site. You put your information on the Web

site. If you are a parent or grandparent or day care center operator, and you are searching on a Web site, you would come to a place like this one or two or three screens later—and it is probably a little bit hard to tell on television, but right here it says ''To use the 'Drill Down' search method'':

What they do is walk you through these tabs—1, 2, 3, 4, 5 steps—and you put in information about the product that you are curious about. What happens is, you go through these steps. I did it yesterday in my office. I am going to tell you, you can look up a product in about 1 minute. It just takes that long. It is easy to use. It is very user friendly.

NHTSA has been doing this for years and years. This is the kind of thing, we would hope, when this legislation passes, that the CPSC would set up. It could be very useful for people all over this country. But you go through the tabs, and you set up what you want to set up. You search the items you want to search. You finally come to this page. This is the page that is the page that most Americans would love to see the Consumer Product Safety Commission offer. They would love to see this type of information.

This is a ''Complaints'' page. This information was filed by a consumer. In many cases, it is done online. It does not have to be, but in many cases it is done online. It is real easy, very inexpensive to do—not a lot of manhours for most of this. It has a ''Report Date,'' which in this case is March of 2008. That is when we ran this. It has the ''Search Type,'' and you see we typed in: ''child safety seat.'' We typed in the name: ''Fisher-Price.'' And for the ''Model,'' we just put the generic child safety seat model. This is all on little pop-up menus and little scroll-down-type menus. It is very easy to use. So we looked at Fisher Price. Crash: No. Fire: No. Number of injuries: One.

We come down here to this child seat: Tether, or strap.

Here is the summary, and this is pretty much what the consumer wrote, right here. It says: The consumer states that the harness strap of the child seat snapped from the back, causing the child to fall out of the seat, and there were some minor injuries.

You will see it has an ID number so they can track each record.

Here again—this is important. Part of the compromise we reached with Senator STEVENS and Senator COLLINS on this issue is that we don't provide information about the complainant. In other words, some in the business community—again, not all, but some—were concerned if we provided information about who is filling these out, then they get a letter from a trial lawyer and all of a sudden you have a lawsuit. We are putting the safeguard in to make sure that doesn't happen. The CPSC under our bill cannot provide that type of information.

Another thing we require of the CPSC is to remove any incorrect information that may be offered by the consumer, by the complaining person. We also allow manufacturers the opportunity to comment on information in the database. For example, they may offer a comment which said: Be sure you follow the instructions because if you don't get it buckled in right, you may have a problem, or whatever; I don't know what their comment may be. But these comments can actually be very useful to people who are searching this. So we built in these safeguards to make sure this NHTSA-type database will work with the CPSC. This is the goal we are trying to get to. We are trying to get to providing that information. While the CPSC is going through this long recall process or working through whatever they have to work through, at least the public has the right to know.

I know I have at least one colleague here who wishes to speak, so let me wrap up on this one final point.

There is a girl who was 14 months old. Her name is Abigail Hartung. She is from New Jersey. When Abigail was 14 months old, she was trapped by a crib. The crib collapsed and her hand was trapped in it. She was 14 months old. It turned out she didn't have a very serious injury, but certainly it was upsetting to the parents and to the child. When the father, Mr. Hartung, called the manufacturer to ask them about this and to tell them about it, the manufacturer told him on the phone: Well, this is amazing. We have never heard of this before. Are you sure you had it set up right? Are you sure the child wasn't somehow abusing the crib, Et cetera, et cetera, et cetera. Come to find out, the company told him they had never heard of this happening before. Come to find out, the company had already received 80 complaints about this happening—80.

This database will build in the accountability for some of these companies that are going to do that. Some of these companies—again, not all; I don't want to paint with a broad brush here, because many of these companies are very responsive. They take these consumer complaints very seriously. They are trying to do the right thing; others, not so much. So for those who are not going to respect the safety and the welfare of their customers, this database will help level the playing field. It will provide information to families and consumers of all sorts to know that there is another place they can go and check and find out if this product has a problem, so companies won't treat others as the Hartungs were treated.

Mr. President, I see I have a wonderful colleague who wants to say a few words, so I will yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. SANDERS. Let me begin by thanking my friend the Senator from Arkansas and my friend the Senator from Maine for their fine work on this very important issue in trying to protect the needs of our kids. I thank them very much.

What I wish to talk about for a short period of time is the budget situation. I am a member of the Budget Committee. The Budget Committee, I believe, will be marking up the budget in committee tomorrow. I believe it will be on the floor sometime next week. This entire process of determining a budget is enormously important, because it reflects the priorities of the American people and it reflects our values. It is no different than any family budget. It has everything to do with where we choose to spend our resources and how we raise our resources. So it is an issue of enormous importance.

As a member of the Budget Committee, I am going to be looking at this budget within a context of four major concerns. No. 1, as I go around my State of Vermont and, in fact, America and talk to a whole lot of people, I think the American people understand, even as Congress and the White House may not, that the middle class in this country today is in the midst of a collapse, and I use that word advisedly. Despite a huge increase in worker productivity, great strides forward in technology, there are tens of millions of American workers today who are working longer hours for lower wages. Poverty in America is increasing. I think of most concern is that moms and dads all over this country are worried that for the first time in the modern history of our country, their kids are going to have a lower standard of living than they do. That is the first sense of reality I look at as we prepare the budget.

The second reality I look at is that while the middle class is shrinking and poverty is increasing, the people on top have not had it so good since the 1920s. I understand we are not supposed to talk about those things. Not too many people talk about the fact that we have the most unequal distribution of wealth and income of any major country on Earth. The rich are getting much richer, while everybody else virtually is seeing the decline in their standard of living. It is not something we are supposed to talk about. I talk about it. I think it should be talked about. I think it is an issue that must be addressed as we look at the budget, because we are going to have to ask a question about how we raise more revenue in order to address many of the unmet needs in our country.

The third issue is just that. The reality is that there are enormous unmet needs in this country. When people say Government shouldn't be involved, I don't know to whom they are talking. Our infrastructure is collapsing. The civil engineers tell us that we have over $1 trillion in unmet needs in terms

of our roads, our bridges, our tunnels, our wastewater systems. We need to fund those. It isn't going to get any better if we don't improve them, and we will create jobs as we do that.

But it is not only our physical infrastructure. We have the highest rate of childhood poverty of any major Nation on Earth. This is a national disgrace. Eighteen percent of our kids are in poverty. We have other seriously unmet needs. So looking at the budget, we have to look at not only the general collapse of the middle class, the fact that the rich are getting richer and everybody else is getting poorer; we have to understand with regard to our children, our infrastructure, there are huge unmet needs.

The fourth issue we have to deal with is that in the midst of all that, our national debt is soaring. It is now over $9 trillion.

So I look at those four areas as issues that must be dealt with as we move into this new budget.

Since President Bush has been in office, median household income for working-age Americans has declined by almost $2,500. That is part of the collapse of the middle class. The reality is we have lost some 3 million good-paying manufacturing jobs in Pennsylvania, in Ohio, and in the State of Vermont. We are losing good-paying jobs, in my view, because of a disastrous trade policy which simply encourages corporate America to throw American workers out on the street, move to China, and then bring their products back into this country. So we are losing good-paying jobs.

Since President Bush has been in office, over 8.5 million Americans have lost their health insurance. We are now up to 47 million Americans without any health insurance. Meanwhile, health care premiums have increased by 78 percent.

Under George W. Bush's watch, for the first time since the Great Depression, the personal savings rate has fallen below zero. This simply means that because of dire economic conditions, we are actually as a people spending more money than we are earning. There are millions of people right now who, when they go to the grocery store, don't buy their Wheaties and don't buy their rice and don't buy their milk with cash. They buy it with a credit card. By the way, they are often charged 25, 28 percent for that credit card. We are looking at a foreclosure crisis which is certainly the highest on record, turning the American dream of home ownership into an American nightmare for millions of our people.

So that is No. 1: The middle class is collapsing. There is tremendous economic pressure. People go to the gas station to fill up their gas tank and pay $3.20 for a gallon of gas, while ExxonMobil makes $40 million last year.

People can't afford home heating oil. The price of food is going up. Everywhere you turn there is enormous pressure on working families and on the middle class. That is a reality we must address as we look at this budget.

But as I mentioned earlier, not everybody is in that boat. Let's be honest about it. The wealthiest people in this country have not had it so good since the 1920s. According to the latest figures from the IRS, the top 1 percent—1 percent—earned significantly more income in 2005 than the bottom 50 percent. That means the 300,000 Americans on the top earn more income than do the bottom 150 million Americans. It is the most unequal distribution of income and of wealth in our country of any major country on Earth. That is a reality that must be addressed as we look at the budget.

According to Forbes Magazine, the collective net worth of the wealthiest 400 Americans—400—increased by $290 billion last year, to $1.54 trillion. Incredibly, the top 1 percent now owns more wealth than the bottom 90 percent. That is an issue we have to deal with.

In terms of our national debt, our national debt is now at $9.2 trillion. I think the history books will be pretty clear in that among many other negative characteristics, President Bush will go down in history as being the most financially and fiscally irresponsible President in the history of this country. The national debt is soaring, and clearly, one of the reasons for that is we spend $12 billion every single month on the war in Iraq which, according to some people, is going to go on forever, I guess—$12 billion a month. And who is paying for it? Our kids and our grandchildren are paying for it, because it is easier to pass the cost of that war on to them than tell the American people today there is a cost of war, and you have to make some choices. Twelve billion dollars a month.

There are people here in the Senate, and the President of the United States, who think we should repeal the estate tax. One trillion dollars worth of benefits go to the wealthiest three-tenths of 1 percent. And how do they propose to make up the difference? They don't. Just pass it on to the kids and our grandchildren and let the millionaires and billionaires of this country have a huge tax break. No problem at all, just: That is what we will do.

I wish to talk about something else that also is not talked about very much, and that is the terrible situation of unmet social needs that exists in this country, and the President's budget. At a time when we have a major health care crisis, the President wants to make major cuts in Medicare and Medicaid. As a member of the Budget Committee, I am going to do everything I can to make sure we do not make the health care crisis in this country even worse. We have, as any mother or father knows—it is true in Vermont and it is true virtually all over this country—a horrendous crisis in terms of affordable childcare. The President has said in his budget that he wants to reduce the number of children receiving childcare assistance by 200,000. We have a major crisis, and the President's response is let's make it even worse.

Embarrassingly, in this great country, many of our citizens are going hungry.

I know in Vermont, our emergency food shelters are running out of food. This is true all over the country. We need to address that issue. The President's response is to deny food stamps to 300,000 families and children, and so forth and so on. It is a crisis among low-income working people. The President's response is to cut those programs so we can give tax breaks to the wealthiest people in this country.

It seems to me that at a time when our country has so many serious problems, at a time when the American people know in their souls that we are moving in the wrong direction in so many areas, with fundamental problems in this country, we have to have the courage to have a serious debate about moving this country in a new direction.

There was an article in the papers recently—last week—and it brought forth a fact that many of us had known, but it is important to repeat: In the United States of America, we have the largest number of people behind bars of any country on Earth. People say, well, China is much larger than America and is an authoritarian, Communist country, so surely they have more people—I am not talking per capita, I am talking collectively, in total—behind bars than we do. Wrong.

Is there a correlation between the fact that we have more people in jail than any other country and the fact that we have the highest rate of childhood poverty of any major country on Earth? I think there is a direct correlation. I think you either pay now or you pay later. Either you give kids the opportunity for decent childcare, nutrition, and education, and keep an eye on them so that in fourth grade they don't mentally drop out, and in the tenth grade they don't really drop out of school and get involved in destructive activity—you either do it—and it costs money—or you ignore that reality.

When these kids go to jail and commit crimes, we spend $50,000 a year keeping them behind bars. That is our choice. If people want to ignore the crisis and the reality we have, which is the highest rate of childhood poverty, that we are underfunding Head Start, and so on, you can ignore it, but you are going to pay the price at the other end by locking up many people in jail.

I also want to mention to my colleagues that I will be bringing amendments to the floor during the budget process. They are simple. What they say is that at a time when the wealthiest people in this country have never had it so good, when the President has given these same people huge tax breaks, the time is now that we rescind

the tax breaks that go to millionaires and billionaires and use some of that money to reduce our national debt, and use others of those sums to start protecting the middle-class working families and the kids in this country.

A budget is about priorities, about choices. I intend to provide some choices to the Members of the Senate. I hope they will support me and those amendments in moving this country in a fundamentally different direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up my amendment, No. 4097.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Reserving the right to object, to make sure, we will go back on the pending amendment as soon as he completes his presentation.

Mr. VITTER. Yes. Mr. President, I wish to modify my unanimous consent request to include that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. VITTER) proposes an amendment numbered 4097.

Mr. VITTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allow the prevailing party in certain civil actions related to consumer product safety rules to recover attorney fees)

On page 58, strike lines 4 through 7 and inserting the following:

''(g) ATTORNEY FEES.—The prevailing party in a civil action under subsection (a) may recover reasonable costs and attorney fees.''.

Mr. VITTER. Mr. President, the amendment is simple and straightforward. It establishes a ''loser pays'' rule for actions by attorneys general under the law. It doesn't make it mandatory, it makes it discretionary, or up to the court. But the court would be allowed to award costs and attorney's fees from the losing party to be paid by the losing party to the winning party. I think that is fair and reasonable. That essentially is the present law. It is also essentially the sort of provision that is in the House bill.

In the Senate bill, the availability of fees and costs and attorney's fees is only available to the winner, if the winner is the attorney general. If the attorney general loses in those suits, if the private party prevails, the private party cannot get those costs and attorney's fees. I think that is unfair. Perhaps more important than it being unfair, I think it creates an imbalance that might encourage clogging the system, clogging the courts—perhaps most important, clogging the workload of the Consumer Product Safety Commission with unnecessary lawsuits that are not fully thought through. I think this reasonable provision—loser pays, whoever the loser is, up to the discretion of the courts, not mandatory, simply allowable, if the court decides—is the fair and balanced approach.

In offering this, let me make clear that we need to do more to increase product safety. This bill does many good things in that regard. The House bill does many good things in that regard. I support that move. But as we do that, I don't want to create an imbalance or actually clog up the system, whether it is the court system or the CPSC workload, clog it up with unnecessary, perhaps frivolous, suits and litigation, and prevent us from getting to that goal.

We should make sure we don't overburden the Consumer Product Safety Commission. One of the problems we have now that this bill and the House bill attempts to address is that of overburdening an inadequate staff and resources. So we need to make sure that as we fix those problems with one hand, we don't use the other hand to make them worse by creating incentives to increase the workload unnecessarily with lawsuits that are not thought through and that are frivolous.

Again, I look forward to supporting and promoting greater consumer safety. I supported the amendment on the floor recently that embodied the House bill, because I think the House bill does that in a substantial way, without having some of the shortcomings—including this one—of the Senate bill. We do need to do more. One thing we don't need to do is create more lawsuits than actually accomplish the objective of safety or to encourage lawsuits that are not thought through, to encourage actions that can be frivolous. This is a reasonable, balanced way to prevent that.

In closing, let me be clear that this doesn't mandate ''loser pays'' in every case. This says to the court that you can award costs and attorney's fees from the loser to the winner in whatever direction that works, no matter who the winners and losers are, but it is not mandatory. That is broadly consistent with present law and broadly consistent with the House bill, which I believe is a fairer, more balanced approach, which will avoid clogging up the system yet again, even as we try to give the system more resources.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that Senators CHUCK SCHUMER and BARACK OBAMA be added as cosponsors to amendment No. 4105 to the Consumer Product Safety Commission Reform Act. This is the amendment Senator MENENDEZ and I have introduced to ban industry-sponsored travel by those who regulate them.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MENTAL HEALTH PARITY

Ms. KLOBUCHAR. Mr. President, I rise to commend the House for bringing today before the House a step that will bring our Nation closer to achieving long overdue fairness for people suffering from mental illness and chemical dependency.

We are now one step closer as the House considers this important mental health parity bill today, one step closer to realizing the dream of my friend, the late Senator Paul Wellstone, who championed equality for those with mental health needs, until his untimely death in 2002.

If this law passes, as it should, we can thank the persistence of leaders such as Representatives JIM RAMSTAD and PATRICK KENNEDY; we can thank Senators PETE DOMENICI and TED KENNEDY; and we can thank the Wellstone sons, particularly David, who continues to carry the torch lit by his father.

While Federal law may not alleviate the stigma that surrounds mental illness, it can bring us closer to ending insurance discrimination and easing the unfair financial burden borne by patients and their families.

Most health care plans currently have barriers to mental health and chemical dependency treatment. Individuals seeking treatment for these health problems face higher copayments and higher deductibles, as well as arbitrary limits on the number of office visits or inpatient days covered. These people pay the same premiums as everybody else, but when they get sick, their insurance doesn't cover them.

The House and Senate proposals build upon the Mental Health Parity Act of 1996 by mandating that if an insurer offers mental health and chemical dependency coverage, the treatment limitations can be no more restrictive than for medical benefits.

Minnesota is proud to have one of the strongest mental health parity laws in the country. But this law only goes so far. Federal action will expand mental health parity protections to those covered by self-insured plans—117 million people—and move us toward real equity for those needing vital services.

It is appropriate that this legislation in the House is named in honor of Paul Wellstone—an inspiring figure whose ceaseless motion and tireless pursuit of a better world was brought to a stop only by that tragic plane crash.

Many in this body, including myself, counted Paul as a friend. We all know Paul was a crusader and a man with many passions. But anybody who ever met or talked with him quickly found out that he had a special place in his heart for helping those with mental illness. This deep and abiding concern was shaped by the suffering of his own

brother. Paul's brother Steven suffered from mental illness. As a young child, Paul watched his brother's traumatic dissent into mental illness. As a freshman in college, he suffered a severe mental breakdown and spent the next 2 years in mental hospitals. Eventually, he recovered and graduated from college with honors. But it took his immigrant parents years to pay off the hospital bills.

Writing about this, Paul recalled the years that his brother was hospitalized. For 2 years, he said, the house always seemed dark, even when the lights were on. It was such a sad home. Decades later, Paul knew there were far too many sad homes in our great Nation—too many families devastated by the physical and financial consequences of mental illness.

Paul knew that we can and should do better. For years, he fought to allocate funding for better care, better services, and better representation for the mentally ill, and for years he fought for mental health parity and insurance coverage. For Paul, this was always a matter of civil rights, of justice, and of basic human decency. Of course, on this issue, as with every other issue, Paul and Sheila, his wife, worked together.

We should all care about securing mental health and chemical dependency treatment equity for the same reasons that Paul did. We should care because of the suffering and stigma that individuals and families endure due to mental illness and addiction. We should care because it is cruel when people with mental health or addiction problems receive lesser care than those with physical health problems. We should care because of the enormous financial cost of these diseases for our society and because the economic research shows how cost effective good treatment can be.

I saw this firsthand as a county prosecutor. I cannot tell you the number of violent crime cases I remember where the right treatment could have prevented a horrible crime, and the later costs of imprisonment, or maybe the right medication would have stopped someone from spiraling downward to a point where they committed a crime. This is not to excuse the crime, and it doesn't mean that we didn't prosecute them aggressively and that they didn't go to prison; it just means if we can prevent the crimes with appropriate treatment and medication, then we must do it.

Untreated mental illness and substance abuse adds an enormous burden to the criminal justice system every day. That is why we created a mental health court in Hennepin County, where I prosecuted, which has had many successes, as well as a drug court. But it would be better to prevent people from getting into the system in the first place. That is why this legislation is so important.

Finally, we should care because we know that people who are suffering need help. Mr. President, 54 million Americans suffer from mental illness or substance abuse. Almost 15 million suffer from depression. Over 2 million suffer from schizophrenic disorders. Over 20 million Americans need treatment for alcohol or drug abuse. These numbers are staggering, but ultimately what convinces anyone of the importance of this issue is when we see how real people close to us suffer, whether it is a son or a daughter, a mother or father, or, as in Paul's case, a brother or a sister, a neighbor or a coworker.

PATRICK KENNEDY and JIM RAMSTAD have been brave enough to talk about their own struggles, and that really adds some moral compass to their leadership in the House. I have seen it in my own family with my dad, who suffers from alcoholism, a larger-than-life dad who could climb the highest mountains, whom also I have seen plunge to the lowest valleys with his battle of alcoholism. My dad finally got the treatment he needed, and I have never seen him so happy as in the past 10 years. Other families need to be, as my dad puts it, ''pursued by grace.'' This legislation offers crucial support for people in need.

Several months ago, our Senate unanimously voted in support of mental health parity. The House is now passing its own legislation. I will say that the House bill is stronger, and I prefer the House bill over the Senate version, but I trust these two bills will be reconciled and signed into law, and I hope my Senate colleagues involved in the conference committee will get us and bring us back the strongest bill possible. This will be a victory for millions of Americans living with mental illness who face unfair discrimination in their access to affordable health care treatment.

Again, I thank my colleagues, Senator KENNEDY and Senator DOMENICI, for their leadership on this issue. I thank PATRICK KENNEDY and JIM RAMSTAD for their continued leadership. But in the end, I am here today with respect to Paul Wellstone, who led this fight for so many years. I know he is looking down on us today and looking down at the House of Representatives that is passing this bill with his name in his honor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 4094

Mr. LEAHY. Mr. President, I realize we earlier thought we might vote at 12:30 p.m. That has been put off to a little later. I wish to talk about the pending amendment to the Consumer Product Safety Commission Reform Act. I am very worried about it. It would tie the hands of State attorneys general who seek to protect their citizens from harmful products.

I see the distinguished chairman on the floor. He was an attorney general. He knows what is involved in these areas. I applaud his efforts for including in the legislation the power for State attorneys general to enforce consumer product safety violations. As a former prosecutor and as one who watches how carefully anything such as this is done in my home State of Vermont, I certainly do not want us to gut that important enforcement provision by immunizing corporate bad actors for the reasonable costs and fees it takes State attorneys general to bring these actions. States are not rolling in money, but they expect their attorneys general to protect them. If wrongdoers have to pay part of that cost, so be it.

If we strike line 5, 6, and 7 of the pending bill, we immunize corporate bad actors. I don't think any of us should have to go home and tell our legislatures: Boy, we just gutted the ability of our State attorney general to do something, and if he does do something, we want to hit you with a higher bill than you would have paid otherwise.

I understand Senator CORNYN's floor statement in support of his amendment mentioned nothing about reasonable fees and costs incurred by the offices of State attorneys general. Rather, he focused on contingency fee agreements that some attorneys general have decided to make with private lawyers to enforce laws.

Setting aside the contingency fee argument for a moment, I wish to highlight that his amendment would do more than just micromanage the types of staffing decisions State attorneys general enter into. I am always somewhat nonplused to hear Members say how we have to get the Federal Government off our backs and let our States make the determination, that Washington doesn't know best, that our State capitals, legislatures, and Governors have a better idea how to do things, and then all of a sudden bring in amendments that would just run roughshod over our 50 States, would relegate our State Governors and legislators to the dustbin.

We should not strike the lines of this bipartisan legislation that make corporations found liable for violating consumer laws responsible for reasonable costs and fees incurred by States. We do this in private litigation all the time. If you have somebody who has violated the law, they ought to pay the costs and not ask the taxpayers to pay the costs for the violators.

The purpose of Senator CORNYN's amendment is to tie the hands of State attorneys general by prohibiting them from entering into certain types of contracts with private lawyers. I have been here long enough to remember a time when principles of federalism and deferring to State governments meant something in this great Chamber. State elected officials are accountable to their citizens. If the State voters do not like the way a State attorney general is staffing cases, that is easy—just don't reelect him or her. But Senator CORNYN's amendment would make the staffing decision for all State attorneys general, whether it is in Vermont or

New Hampshire or Arkansas or Texas or anywhere else. What he is asking us to do, the 100 Members of this body, is to stand up and say we have greater wisdom than all the legislatures in this country and we are going to tell individual States how they should conduct their business. I believe that is unwise, especially in the context of unsafe products that have the potential to harm consumers. So I oppose this amendment. It undermines the important enforcement role of State attorneys general, and it runs roughshod—it runs roughshod—over any State where their legislature, their Governor, their attorney general wants to protect the people of their State from unsafe consumer products.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, it looks as if we have a couple Senators who are preparing to speak. I wish to follow up on the comments, very briefly, that the distinguished chairman of the Senate Judiciary Committee made about the attorneys general.

This idea of allowing State attorneys general to assist Federal agencies with enforcement of Federal decisions is not new in this bill. This has been around for a long time. I have nine examples I want to mention very quickly.

In the Fair Credit Reporting Act, the Telephone Disclosure and Dispute Resolution Act, the Children's Online Privacy Protect Act, the Telemarketing and Consumer Fraud and Abuse Prevention Act, the Credit Repair Organizations Act, the Controlling the Assault of Nonsolicited Pornography and Marketing Act, and one section of the Truth in Lending Act all provide for State attorneys general to have a role in enforcement.

My last point—and this is the ninth one I want to mention—a few years ago, the FTC's telemarketing sales rule went into effect. They said at one point:

> The commission believes that the joint Federal-State enforcement model under the Telemarketing Act provides a practical framework for coordinating our efforts with those of States and results in an efficient and effective law enforcement program.

We are utilizing a model that other Federal agencies that had this model before recognize is an effective and efficient use of resources.

My last point on adding the attorneys general to the enforcement of the CPSC rules, regulations, and decisions is that it is a very efficient way to do it. If we wanted to, the Congress could add another $5 million, $10 million, $20 million, $50 million—whatever it may be—in appropriations to this Federal agency to put people out there around the various States to do the very same work the State attorneys general offices can do without any Federal taxpayers' dollars involved.

I thank the distinguished chairman of the Senate Judiciary Committee for his comments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MENENDEZ). Without objection, it is so ordered.

AMENDMENT NO. 4109

Mr. CASEY. Mr. President, I ask unanimous consent that the pending amendment be set aside so I can call up amendment No. 4109.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Pennsylvania [Mr. CASEY], for himself, Mr. BROWN, and Ms. LANDRIEU, proposes an amendment numbered 4109.

Mr. CASEY. Mr. President, I ask unanimous consent that the reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To require the Consumer Product Safety Commission to study the use of formaldehyde in the manufacturing of textiles and apparel articles and to prescribe consumer product safety standards with respect to such articles)
>
> On page 103, after line 12, add the following:
>
> **SEC. 40. CONSUMER PRODUCT SAFETY STANDARDS USE OF FORMALDEHYDE IN TEXTILE AND APPAREL ARTICLES.**
>
> (a) STUDY ON USE OF FORMALDEHYDE IN MANUFACTURING OF TEXTILE AND APPAREL ARTICLES.—Not later than 2 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall conduct a study on the use of formaldehyde in the manufacture of textile and apparel articles, or in any component of such articles, to identify any risks to consumers caused by the use of formaldehyde in the manufacturing of such articles, or components of such articles.
>
> (b) CONSUMER PRODUCT SAFETY STANDARD.—Not later than 3 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall prescribe a consumer product safety standard under section 7(a) of the Consumer Product Safety Act (15 U.S.C. 2056(a)) with respect to textile and apparel articles, and components of such articles, in which formaldehyde was used in the manufacture thereof.
>
> (c) RULE TO ESTABLISH TESTING PROGRAM.—
>
> (1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall prescribe under section 14(b) of such Act (15 U.S.C. 2063(b)) a reasonable testing program for textile and apparel articles, and components of such articles, in which formaldehyde was used in the manufacture thereof.
>
> (2) INDEPENDENT THIRD PARTY.—In prescribing the testing program under paragraph (1), the Consumer Product Safety Commission shall require, as a condition of receiving certification under subsection (a) of section 14 of such Act (15 U.S.C. 2063), that such articles or components are tested by an independent third party qualified to perform such testing program in accordance with the rules promulgated under subsection (d) of such section, as added by section 10(c) of this Act.
>
> (d) PREEMPTION.—Nothing in this section or section 18(b)(1)(B) of the Federal Hazardous Substances Act (15 U.S.C. 1261 note) shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any provision of State or local law that—
>
> (1) protects consumers from risks of illness or injury caused by the use of hazardous substances in the manufacture of textile and apparel articles, or components of such articles; and
>
> (2) provides a greater degree of such protection than that provided under this section.
>
> ''(e) SENSE OF THE CONGRESS.—Congress finds that:
>
> ''(1) Formaldehyde has been a known health risk since the 1960s;
>
> ''(2) As international trade in textiles has grown an number of countries have recently recalled a number of textile products for excessive levels of formaldehyde;
>
> ''(3) The Federal Emergency Management Agency and the Centers for Diseases Control released formaldehyde testing results from trailers in Louisiana and Mississippi on February 14, 2008:
>
> ''(A) Results of these tests showed levels of toxic formaldehyde that were on average five times as high as normal;
>
> ''(B) Formaldehyde in textiles is a known contributor to increased indoor air concentrations of formaldehyde; and
>
> ''(C) The Centers for Disease Control has recommended residents of the 2005 hurricanes living in Federal Emergency Management Agency trailers immediately move out due to health concerns.''

The PRESIDING OFFICER. The Senator is recognized.

Mr. CASEY. Mr. President, I wish to first of all commend the work of several colleagues on this Consumer Product Safety Commission legislation, and in particular the Senator from Arkansas, Senator PRYOR, for long overdue changes of the law that pertain to how we protect consumers, families, across America from unsafe products from around the world that come into Pennsylvania and come into America and can do harm to our families. So I am grateful for the work that went into this legislation.

Today, I wish to raise with this amendment a particular concern I have, and I think it is shared by a lot of people in this body, and that is the threat posed by formaldehyde. I am going to put up a definition so people have a sense of what we are talking about. Formaldehyde is a colorless, strong-smelling gas, and when present in the air at levels above 0.1 parts per million, it can cause watery eyes, burning sensations in the eyes, nose, and throat, nausea, coughing, and all the things you see here, but it has also been shown to cause cancer in scientific studies using laboratory animals and may cause cancer in humans.

So we are talking about something that is a threat to families across this country, and it is something that this legislation should deal with.

Our amendment is very simple. And I should note for the record this amendment is being offered not only by me but by Senator BROWN of Ohio and Senator LANDRIEU of Louisiana. It is very simple what we do. We set forth in this amendment to have the Consumer Product Safety Commission, first of all, study the use of formaldehyde in the manufacturing of textile and apparel articles. That study would be conducted within 2 years, and basically we would want that study to identify risks to consumers caused by the use of formaldehyde in the manufacturing of articles that may be clothing articles or components of such articles.

So, first of all, the study. Secondly, not later than 3 years after the date of the enactment of the amendment, the Consumer Product Safety Commission should set forth a safety standard, which is something this Commission can do and should do with regard to formaldehyde.

Thirdly, we say that the Consumer Product Safety Commission shall prescribe a testing program, a reasonable testing program for textile and apparel articles and components of such articles. Basically, what we are talking about is to test for the presence of formaldehyde and the threat it poses.

Now, what are we talking about? Some of the news articles over the last couple of years point to very basic articles in the life of any family in this country—blankets. There was a problem not too long ago with the presence of formaldehyde in blankets. We have seen examples where toys and other products that impact children, but especially when it comes to clothing in this case, there have been examples of baby clothing where there is a threat posed by the presence of formaldehyde.

Some might say: Well, why would the Consumer Product Safety Commission have to have a regulation such as this and to have a program to deal with this? Well, for some reason, it has been left off the list. Because in terms of the Government agencies already that have regulated the use of or exposure to formaldehyde, the list is long. The Occupational Safety and Health Administration, OSHA, has it; the Environmental Protection Agency, EPA, has it; the Food and Drug Administration; the Housing and Urban Development agency has it. So these are agencies already in the Federal Government that have regulated the use of and exposure to formaldehyde, and what we are asking in this amendment is that yet another critical agency in our Government, the Consumer Product Safety Commission, be charged with the responsibility of studying, setting forth rules and regulations, and also making sure we are doing everything possible to prevent this from becoming an even larger threat to American families.

I would conclude with one chart: the Consumer Product Safety Commission regulations of formaldehyde. And after that, the entire chart is blank because that is exactly what the Consumer Product Safety Commission is doing right now on formaldehyde—nothing, not a single thing, not a single rule that deals with this, despite the threat posed to young children, to babies when they wear baby clothing, or the threat it poses to all Americans when it comes to what we wear.

This is long overdue, and I hope colleagues on both sides of the aisle would not only support, as I think they will, strongly, the elements of this Consumer Product Safety Commission legislation but in particular that they would support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4122

Mr. DORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 4122.

Mr. DORGAN. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the provision allowing the Commission to certify a proprietary laboratory for third party testing)

On page 25, beginning with line 21, strike through line 13 on page 29 and insert the following:

''(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) 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)(ii) 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) 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 (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.

''(D) DECERTIFICATION.—The Commission, or an independent standard-setting organization to which the Commission has delegated such authority, may decertify a third party laboratory if it finds, after notice and investigation, that a manufacturer or private labeler has exerted undue influence on the laboratory.''.

Mr. DORGAN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4098

Mr. DORGAN. Mr. President, I send another amendment to the desk and ask for its consideration; amendment No. 4098.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 4098.

Mr. DORGAN. Mr. President, I ask unanimous consent the amendment be considered read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ban the importation of toys made by companies that have a persistent pattern of violating consumer product safety standards)

On page 103, after line 12, add the following:

SEC. 40. BAN ON IMPORTATION OF TOYS MADE BY CERTAIN MANUFACTURERS.

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

(1) in subsection (a), as amended by section 10(f) of this Act—

(A) in paragraph (5), by striking ''; or'' and inserting a semicolon;

(B) in paragraph (6), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(7) is a toy classified under heading 9503, 9504, or 9505 of the Harmonized Tariff Schedule of the United States that is manufactured by a company that the Commission has determined—

''(A) has shown a persistent pattern of manufacturing such toys with defects that constitute substantial product hazards (as defined in section 15(a)(2)); or

''(B) has manufactured such toys that present a risk of injury to the public of such a magnitude that the Commission has determined that a permanent ban on all imports of such toys manufactured by such company is equitably justified.''; and

(2) by adding at the end the following:

''(i) Whenever the Commission makes a determination described in subsection (a)(7) with respect to a manufacturer, the Commission shall submit to the Secretary of Homeland Security information that appropriately identifies the manufacturer.

''(j) Not later than March 31 of each year, the Commission shall submit to Congress an annual report identifying, for the 12-month period preceding the report—

''(1) toys classified under heading 9503, 9504, or 9505 of the Harmonized Tariff Schedule of the United States that—

''(A) were offered for importation into the customs territory of the United States; and

''(B) the Commission found to be in violation of a consumer product safety standard; and

''(2) the manufacturers, by name and country, that were the subject of a determination described in subsection (a)(7)(A) and (B).''.

Mr. DORGAN. Mr. President, this issue of imported products from abroad in an increasingly globalized world is a very significant and serious issue. I am not one who suggests we can retreat from the global economy. Clearly, the global economy exists. I would say the rules for the global economy have not nearly kept pace with the galloping movement of this global economy and, as a result of it, we have some very serious trade issues, we have imbalances in trade, we have the largest trade deficit in human history, we have the loss of American jobs being shipped overseas, and then we have, in addition to all that, we have products that are now made overseas, shipped into this country, that we have discovered are dangerous products.

My colleague from Arkansas, Senator PRYOR, under his leadership, and with others, have brought a bill to the floor of the Senate. I am on the Senate Commerce Committee, and I was pleased to work with them and play a very small role in helping create this legislation, but I wish to commend my colleague and others for bringing a bill to the floor that gives the Consumer Product Safety Commission some additional authority.

Now, the Consumer Product Safety Commission is headed by somebody who didn't want the authority; didn't seem to think it was necessary, unfortunately. We need someone at the Consumer Product Safety Commission who is very interested, very alert, and very engaged on these issues. Because the fact is, these can be life-or-death issues. That is a plain fact.

Now, the amendment I have offered, the second amendment, is relatively simple. I wish to describe it. It is an amendment that says the Consumer Product Safety Commission should have the authority to permanently ban imports from certain producers, foreign producers, that have shown a persistent pattern of shipping unsafe products to our shores. Let me repeat. This simply gives the Consumer Product Safety Commission the authority to ban imported toys from unsafe producers.

Under this amendment, the Consumer Product Safety Commission would have the full discretion to decide whether a particular case warrants such a ban. I think it would shock most Americans to learn that there is no such authority that exists at the moment. We can have a company that sends us once, twice, 4 times, 5 times, 10 times or 20 times unsafe products into this country, and there is no authority for anyone to ban that company from shipping products into the U.S. marketplace. That is wrong.

So let's say that a company, in this case let me say China—and I don't mean to pick on the Chinese, but the fact is 85 percent of the toys that come into this country are coming in from China—let's say a manufacturer has a complete and persistent record of painting their toys with lead paint. How often should we allow that company to be caught sending toys into this country with lead paint; lead paint that has a significant capacity to provide injury to children? How long should we allow that to happen? Under current law, the answer is, there is no limit.

Hopefully, we will find the toys and prevent them from being on the store shelves. But at the present time, there is no limit, and no one has the capability to ban the producers from sending those products into this country.

There are Chinese companies producing for U.S. brands that have had many repeated problems. In September, Mattel, Incorporated, announced the third massive recall in a 5-week period. At that point, Mattel found 848,000 Chinese-made Barbie and Fisher-Price toys that had excessive amounts of lead paint. Toys were pulled from the store shelves at that point, and that included Barbie kitchens, furniture items, Fisher-Price train toys, and Bongo Band drums, among others. The surface paints on these toys contained excessive levels of lead, which is prohibited under Federal law because, frankly, it is unsafe for children.

Now, in addition to those recalls, Mattel has recalled nearly 9 million Chinese-made toys coated with toxic lead paint and other safety problems. The plastic preschool toys sold under the Fisher-Price brand in the United States include the popular Big Bird, Elmo, Dora, and the Diego characters.

In June of last year, RC2 Corporation recalled 1.5 million wooden railroad toys and set parts from its Thomas & Friends. Most parents of young children will recognize Thomas & Friends, the wooden railway product line, which was made by Hansheng Wood Products factory using lead paint. So 1.5 million of these toys were headed to the store shelves in this country.

Now, the question: Why would a producer anywhere use lead paint? Well, because lead paint is bright, it is durable, it is flexible, it is fast drying, and most of all, it is cheap. China mass produces lead paint and coloring agents such as lead chromate because they are generally cheaper than organic pigments.

But lead is dangerous even in small quantities. We have known that for a long while in this country. Going back to 1978, the U.S. Consumer Product Safety Commission made it illegal to use any paint containing more than 0.06 percent of lead for residential structures, hospitals, and children's products.

We have known about lead for so long that Ben Franklin wrote about the dangers of lead. Ben Franklin wrote a letter about the bad effects of lead taken inwardly. Some 19th century paint companies advertised their paint in newspaper ads bragging it was lead free. So this isn't some new discovery, that lead is a problem and a potential human health problem. And it is no accident that some of these toys are containing excessive levels of lead paint. Because, as I said, lead is cheap, the contractors that are making these products are trying to lower costs, and they are not spending a lot of time wondering about human health issues.

Now, let me describe this silver chain. This is a Chinese-made charm.

This charm is an example of a heartbreaking case. This happened in March 2006 when a 4-year-old Minnesota boy died of lead poisoning after swallowing this small, heart-shaped charm that came as a gift with a purchase of Reebok tennis shoes. A little 4-year-old boy swallowed this, and this was 99 percent lead. The fact is, these kinds of circumstances can kill. Unsafe toys can kill.

Jarnell died because a trinket, made of 99 percent lead, was included with a shoe, and that trinket was swallowed by a young child, and he is dead.

Ann Brown, who headed the Consumer Product Safety Commission from 1994 to 2001—and by the way, I might say, she was an extraordinary public servant, did a wonderful job. She said there should be an outright ban on any lead in any toy product. She said: If I were at the CPSC now, the Consumer Product Safety Commission, I would say that trying to recall tainted products is like picking sand out of the beach: it is just not possible. I agree with that.

The only way to make certain our products on our store shelves are safe, and especially toy products that are going to be used by our children, is to give the officials who are supposed to be monitoring this and regulating this the authority to permanently ban unsafe producers. Short of that, we are going to continue to see these problems. Then we are going to scratch our heads and wonder: Why do these still exist? The reason they still exist is the same companies are shipping us tainted products and unsafe products. This is not rocket science. We have seen the products, we have read about the products, we have heard about the products. They include, yes, a trinket with a tennis shoe; they include a small wooden toy painted with lead paint; they include toothpaste; they include cat food, contaminated shrimp, car tires—you name it.

The question is, Who is going to stand up for and support the interest of American consumers? I think it has been the case that when these problems came to light and people lost their lives because of them, many of the producers, particularly some in China, said: None of this is true. These are problems that are exaggerated, and our products are safe.

Then, in June, when there was a tremendous outcry here in the United States, regulators in China finally said they had closed 180 food plants and that inspectors had uncovered more than 23,000 food safety violations. China Daily, the nation's English-language newspaper, said industrial chemicals, including dyes, mineral oils, paraffin wax, and formaldehyde, had been found in everything from candy to pickles to biscuits to seafood. China announced on July 9 of last year that it had actually executed the former head of its food and drug safety agency for accepting bribes in excess of $800,000 in exchange for approving substandard medicines.

Well, we know the problem. That is why we have a bill on the floor of the Senate. We know at least a part of this solution. The bill on the floor of the Senate is a good bill. But I have an amendment that would improve it, so that when you have a company that has a persistent and consistent and relentless problem of shipping unsafe products to this country, we can say: Stop, you cannot do it anymore.

I read a while back about a guy in my home State who was picked up 13 or 14 times for drunk driving. Our State said: Stop. You cannot drive any more. It is over. We are not putting up with this.

We ought to do the same thing with companies—not only in China but elsewhere—that send unsafe or tainted products that are unsafe for American consumers and especially children. We ought to do the same thing to companies that do that over and over again. If they are not willing to abide by the regulatory processes and by the standards we set and adopt in this country, then they are not welcome any longer to ship products to our store shelves. So I offer an amendment that would allow us at least the authority—not the requirement, the authority—to outright ban products from companies that have a record of persistent problems in sending unsafe or tainted products to our store shelves.

Again, I wanted to say that as all of this has played out, this is all part of the global economy these days. You know, you produce somewhere and ship it somewhere else, and someone consumes it. I have spoken extensively about this, this issue of the global economy that has galloped forward, but the rules have not kept pace. This is one more area where the rules have not kept pace, and this underlying piece of legislation is an attempt to establish better rules.

Now, the fact is, we cannot force this to work unless we have people in agencies who are hired and paid by the Federal Government who want to do their job. The fact is, we have had abysmal leadership at one of the agencies that ought to have been involved in stopping this. It is unbelievable to me that someone collects a paycheck and has a sense of self-worth if they are not interested in standing up for what their agency should stand up for, but that has been the case.

So we bring a piece of legislation to the floor that is a good piece of legislation, that establishes new rules, rules that will provide for safety for American consumers. But we need better management and better leadership as well at some of these agencies who have decided they are going to stand up for consumers too.

AMENDMENT NO. 4122

I wish to mention the second amendment I have offered, which is one about which I will not speak at great length. I wish to visit with the manager of the bill at some point. That is an amendment which would strike the provision that allows the Commission to certify a proprietary laboratory for third-party testing. I would like to see independent testing. Let me hasten to say I accept the good intentions, the good will of those who wish to test themselves, but in my judgment, when you have proprietary testing, it is a step or several steps away from independent testing. I wanted to talk to the manager of the bill about this amendment to see if we can find a way to at least make sure all testing that is done represents truly independent testing.

STRATEGIC PETROLEUM RESERVE

Mr. President, I wish to finish my comments with another point.

Yesterday, I came to the floor, and I was going to offer an amendment, but there was an objection because my amendment is admittedly not germane. I will not attempt to offer it today. I understand others are not offering the nongermane amendments, so I will certainly not offer mine, except to say I intend to offer it every chance I get. I will find a crevice someplace on an authorization bill or I will do it on the Energy and Water appropriations bill that I write because writing the chairman's mark gives me an opportunity to simply write it in.

It deals with this question of today, on Wednesday, we are sticking 60,000 to 70,000 barrels of oil underground in one of our domes to save it for the future, at a point when the price of gasoline is at $3, $3.50, going to $4 a gallon and oil is rocketing up around $103 a barrel and the Strategic Petroleum Reserve, where we store oil underground for a rainy day, is 97 percent full. We have the administration taking oil from the Gulf of Mexico as royalty-in-kind from oil wells, and instead of putting it into the supply and converting it to money for the Federal Government, they are sticking it underground and saving it for a rainy day. This is, by the way, a subset of oil called sweet light crude. What that does is put upward pressure on oil and gas prices at exactly the wrong time.

This is not rocket science either. Why would you pick the highest price of oil and say: By the way, the Federal Government has decided, in addition to all of the other issues out there with respect to energy policy, we have decided to see if we cannot put some upward pressure on gas prices, and they have. Government witnesses testified before the Energy Committee yesterday and admitted that this puts upward pressure on gas prices. So why on Earth would we stick 60,000 or 70,000 barrels of oil a day underground? That is unbelievable to me. It is going to double. There are going to be 125,000 barrels a day in the second half of this year, sticking it in the Strategic Petroleum Reserve.

I now have a piece of legislation that would say: You cannot do that. There has to be a 1-year pause unless the price of oil goes back below $75. But if it does not, there has to be a 1-year pause, that the oil has to go into the supply, not underground.

The Federal Government ought not be making things worse for consumers, you know. There are a lot of interests here that are causing American drivers to be burned at the stake, but the Federal Government is carrying the wood when it is putting oil underground. That makes no sense at all. We have OPEC, all of these other issues. We have unbelievable speculation in the market, with hedge funds and investment banks knee-deep in a carnival of speculation.

We had a witness testify that the oil futures market has become like a 24/7 casino—never closes. The result of all of this speculation by people who are trading in oil—and they will never have the oil and never get oil, yet they are trading futures contracts and driving up the price every time as all of that speculation goes on. I think that deserves and needs an investigation.

Our Federal Government has decided on a policy of taking oil out of the supply and sticking it underground. There is only one word for that; that is, ''nuts.'' We have to stop it.

I was not able to offer this amendment on this bill yesterday, but I will be back with this amendment. In my judgment, we will have a vote on it in the Senate because we have the votes to pass it and say to this administration: Stop it. Put an end to it. Put that oil in the supply and put downward pressure on gas prices and downward pressure on oil prices.

Mr. President, I yield the floor.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I have an amendment I would like to offer at some point. I will not do so at this time, but I would like to make some general comments on the subject.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KOHL. Mr. President, the bipartisan amendment I am talking about addresses the troubling use of court secrecy. Far too often, our courts permit vital information that is discovered in litigation, which bears directly on public health and safety, to be covered up. Our amendment is a narrowly targeted measure that will make sure court-endorsed secrecy does not prevent the public from learning about health and safety dangers.

This amendment is a good amendment because it is a complement to this bill, and we know private lawsuits are often a critical source of information about dangerous products. Court secrecy often hinders regulatory agencies in their efforts to protect the public.

Under the amendment, judges would have to consider public health and safety before granting a protective order for sealing court records and settlement agreements. Judges have the discretion to grant or deny secrecy based on a balancing test that weighs the public's interest and public health and safety hazards and legitimate interests in secrecy such as trade secrets. The amendment does not place an undue burden on our courts. It simply states that in a limited number of cases, judges would have to take a closer look at requests for secrecy.

We know there are appropriate uses for these orders and we are confident that our judges will protect information that truly deserves it.

We are all familiar with well-known cases where protective orders and secret settlements prevented the public from learning about the dangers of silicone breast implants, IUDs, prescription drugs, exploding gas tanks, dangerous playground equipment, collapsing baby cribs, and defective heart valves and tires. Had information about these harmful products not been sealed, injuries could have been prevented and lives could have been saved.

At a December hearing, we learned that while some judges may be more aware of the issue, this problem continues, and we have examples to prove it. Johnny Bradley told us the chilling details of a car accident caused by tire tread separation that killed his wife and left him and his son severely injured. During his lawsuit against Cooper Tire, he learned that information about similar accidents had been kept secret for years through court orders and secret settlements. Today, details about this tire defect remain protected by court orders while Cooper Tire continues to aggressively fight attempts to make them public.

We also heard from Judge Joe Anderson, a Federal district court judge in South Carolina. He supports the bill as a balanced approach to address ''a discernable and troubling trend'' for litigants to ask for secrecy in cases where public health and safety might be adversely affected. He told us about a local rule in South Carolina, one that goes even further than our amendment, and how it has been a great success. The number of trials has not increased and cases continue to settle even though secrecy is no longer an option in that court.

I have heard concerns about national security and personally identifiable information so I have included language to ensure that this information is protected. I have also heard concerns about protecting trade secrets. I would like to make it very clear that our amendment protects trade secrets. We are confident that judges, as they are already required to do, will give ample consideration to them as part of the balancing test. However, we will not permit trade secrets that pose a threat to public health and safety—such as defective tire design—to justify secrecy.

Some people argue that there is no evidence that protective orders or sealed settlements present a significant problem. Just ask the thousands of people who took the prescription drug Zyprexa without knowing the harmful side effects that were concealed by a secret settlement. Or ask the parents whose children were injured or killed by dangerous playground equipment, collapsing baby cribs, ATVs, and over-the-counter medicines.

If information about these products had not been sealed, we may have known about the dangers and lives could have been saved. So I hope my colleagues will support the efforts we are trying to bring to bear to pass this long overdue legislation.

Thank you so much, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4096

Mrs. MCCASKILL. Mr. President, I want to talk a little bit about an amendment that has been offered by Senator DEMINT to remove a very important provision of this bill—a very important provision because it deals with whistleblowers.

Now, why do we need to protect whistleblowers? Well, let's be honest about this. I think Senator PRYOR has done a masterful job of laying out the reality of the Consumer Product Safety Commission and, frankly, the tawdry way it has met its responsibilities over the last 7 years. We obviously need to do many of the things that are included in this legislation, and I thank Senator PRYOR for his work on this legislation, along with Senator INOUYE, Senator STEVENS, and Senator COLLINS, because this is important.

We are talking about the lives and health and safety of people who think we are on the job. They think their Government is, in fact, looking out for their safety and protection in terms of consumer products, and the safety of those products.

So why do we need whistleblower provisions? Because frankly that is our best line of defense. It is, in fact, the people who work at this important agency who have been most offended at some of the practices of this administration in terms of undermining and gutting the work that has been done by the brave, talented, and competent people who work there. So I do not know why we would be reluctant to give them whistleblower protection.

This is not a new concept. Whistleblower protection is not a new concept. This Congress has enacted and this President has signed many whistleblower protection laws into being over the last several years. Let's review them. These are the same commonsense protections that were already passed by the Senate and signed into law as part of the 9/11 Implementation Act and Defense Authorization Act.

Since 2000, Congress has passed the following same kind of commonsense whistleblower protections: We have done AIR–21 in 2000 for airline industry workers. We have done Sarbanes-Oxley in 2002 for employees of publicly traded companies. We have done the Pipeline Safety Act in 2002 for oil pipeline employees. We have done the Energy Policy Act in 2005 for nuclear workers. We have done, as I said, the Implementing Recommendations of the 9/11 Commission Act in 2007 for railroad and public transportation workers. And, of course, we have done the Defense Authorization Act in 2008 for Department of Defense contractors.

Now, why would we want to protect the contractors' employees at the Defense Department and not protect the employees in the Consumer Product Safety Commission? That does not even make sense. Of course, we want to protect them.

Let me give you some examples of what some of the employees have said publicly about some of the pressures they face and about the atmosphere in which they work. Then you realize the kind of protection they need.

One CPSC safety employee said his boss, his superior:

> . . . hijacked the presentation. . . . He distorted the numbers in order to benefit industry and defeat the petition. It was almost like he still worked for them, not us.

And by ''them,'' he meant the industry that was supposed to be regulated and supposed to be made accountable.

Another CPSC safety employee said:

> Buyer beware—that is all I have to say.

Another one:

> So much damage has been done.

Another one:

> It's a complete disaster.

All of these employees were talking about what they know and what they see in terms of this agency's failings to do the bare minimum, the basic necessities of protecting consumers.

In March 2005, CPSC called together the Nation's top safety experts to confront an alarming statistic: 44,000 children riding ATV vehicles were injured the previous year, nearly 150 of them killed. Subsequent to an alarming presentation by CPSC employees of the dangers and risks, the agency's director of compliance then presented a public view that was unsubstantiated by the research that had been done.

The head of the poison prevention unit resigned when the efforts to require inexpensive child-resistant caps on hair care products that had burned toddlers were delayed, and delayed so industry costs could be weighed against the potential benefit to unsuspecting children.

These whistleblower protections will not shield bad employees. It does not protect disgruntled employees who make false claims, and it does not prevent an employer from firing a whistleblower for unrelated reasons, such as poor performance.

Let's get to the meat of the matter. The President does not like the whistleblower protections. I wish I were surprised. The claim is that the administration thinks this provision of the bill extends new whistleblower protections in ways that are unnecessary. This administration being hostile to a provision protecting whistleblowers is a little bit like the Sun coming up. It has gone out of its way to lobby against every whistleblower law that has been enacted.

This is a very secretive administration, and they are simply hostile to the concept of whistleblowing because it sheds light—it sheds light—and public scrutiny on abusive conduct that betrays the public trust.

Another claim made by the administration: These provisions are likely to result in serious problems for the CPSC in carrying out its mission and will cause a serious increase in the number of frivolous claims brought against employers.

Yes, the specter of frivolous claims. We always need to be worried about the specter of frivolous claims and frivolous lawsuits. It is not real, this worry from the administration. This provision is designed to help the dramatically understaffed CPSC enforce the law. It is a necessary enforcement cornerstone for this vital reform to be realized most effectively.

With only 400 employees, we cannot expect this agency to find every single consumer hazard or product that makes its way to consumers. We need to empower the employees to help. We need to protect them if they want to bring the public's attention to the work they have done.

There have been numerous concerns expressed about the increased burden to be placed on employers because of litigation. Frankly, these shrill predictions have been made every single time—every time we have considered one of the 35 other corporate whistleblower laws that Congress has passed.

The CPSC whistleblower language retains preexisting effective structural checks against litigation abuses. And this is important; let me underline this. There is not one case—not one case—since 1974 where the CPSC has had to use the structural checks against litigation abuses. In other words, this is a complete paper tiger.

Let's do what is right here. We should be celebrating whistleblowers, we should be thanking whistleblowers, and, by all means, we should be protecting whistleblowers.

I urge the Senate to reject the DeMint amendment that would gut one of the important ways we have in this bill to actually protect the innocent consumer from, in fact, having a toy with lead paint or another dangerous product that could do real and irreversible harm to members of their family.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. KLOBUCHAR. Mr. President, I wish to address one point related to the amendment that the Presiding Officer and I have, amendment No. 4105, which is coming up for a vote shortly.

I received an e-mail communication from the Consumer Product Safety Commission which pledged Chairman Nord's support for our amendment. I am pleased she is supporting our amendment which basically bans industry from financing travel when it involves industries the Consumer Product Safety Commission regulates.

They also clarified in the amendment that there were, in fact, I think 29 instead of 30 trips that were taken in the last 7 years but also that Chairman Nord herself took only 3 of these trips and that the rest of the trips were her predecessor who went on trips to places such as China. I would point out that one of the trips she took, which they call mundane in this e-mail, was to New York that was financed by the toy industry itself. As my colleagues know, we are now dealing with these toxic toys. Another one she took which wasn't mentioned in her e-mail, but I am getting out of the Washington Post article, was $2,000 in travel from the Defense Research Institute to attend its meetings in New Orleans on product litigation trends. Her predecessor had attended the same group's meeting in Barcelona.

My point is to clarify the record. We are pleased to have Chairman Nord's support for our amendment. But I would note the issue that doesn't seem to be grappled with in this e-mail is the consumers who have to deal with this—the families with whom Senator PRYOR and I met, including the mother of the little boy who swallowed the Aqua Dot that morphed into the date rape drug—they were not able to finance the travel. They were not able to spend 2 days with the head of the Consumer Product Safety Commission to make their case.

That is why I believe it is very important, as we look at the ethical accountability issues related to the Consumer Product Safety Commission, that this amendment pass.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 4103

Mr. CARDIN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 4103.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN] proposes an amendment numbered 4103.

Mr. CARDIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Consumer Product Safety Commission to develop training standards for product safety inspectors)

On page 5, between lines 21 and 22, insert the following:

(c) TRAINING STANDARDS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall—

(A) develop standards for training product safety inspectors and technical staff employed by the Commission; and

(B) submit to Congress a report on such standards.

(2) CONSULTATIONS.—The Commission shall develop the training standards required under paragraph (1) in consultation with a broad range of organizations with expertise in consumer product safety issues.

Mr. CARDIN. Mr. President, this amendment would require that new hires of the Consumer Product Safety Commission be adequately trained by making sure a study is done on adequate training.

First, I wish to take some time, if I might, for one moment to thank my colleagues for bringing the Consumer Product Safety Commission Reform Act to the floor of the Senate. It is long overdue. There are many important provisions in this act, including dealing with an issue that has been very dear to me, coming from Baltimore, which has been a city actively involved in trying to deal with lead poisoning. I am pleased this legislation will ban lead in our children's toys and set up independent testing to make sure we have an effective way to deal with lead in toys, particularly those that are imported.

There are many other important provisions of this act. The amendment I called up is an amendment to make sure that as the new hires come to the Commission, these individuals are adequately trained so we can make sure they are doing their work appropriately. I believe we will have support on both sides of the aisle, and I hope that amendment can be cleared.

I also anticipate offering two additional amendments which have not yet been cleared for introduction, and I hope I have a chance to do that on behalf of Senator OBAMA. One amendment would include the right to know for products that are recalled, so the public would know the exact information they need so the recall notices are effective. It would include the manufacturer. It would include where the product came into our market. It would include a lot more information, consumer information, as to how they can get relief. I hope I have a chance to offer that amendment at a later point.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to a vote immediately in relation to Klobuchar amendment No. 4105, as modified, with 2 minutes of debate prior to the vote, equally divided; further, that no second-degree amendments be in order prior to the vote; that following the vote in relation to the Klobuchar amendment, there be 1 hour of debate on Cornyn amendment No. 4094, as modified, with the time equally divided between Senators CORNYN and PRYOR, or their designees; further, that a vote in relation to the Cornyn amendment occur at a time to be determined by the two leaders; that no second-degree amendments be in order prior to the vote, and there be an additional 10 minutes of debate prior to the vote in relation to the Cornyn amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 4105

We now have 2 minutes of debate on the Klobuchar amendment. Who yields time?

Ms. KLOBUCHAR. Mr. President, I will divide my time with Senator MENENDEZ. We feel strongly about this amendment. This is an amendment that basically says the Chairman of the Consumer Product Safety Commission and other employees cannot finance their travel from the industry they are regulating. This was a major scandal this fall, right in the middle of the time that we found out that 29 million toys had been recalled, that employees of the CPSC were taking travel paid for by the industry they are supposed to regulate. It is not consistent with what SEC and other agencies do. We believe this amendment is very important. We heard from the chairman of the Commission that she doesn't oppose this amendment. Thank you.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I join my colleague from Minnesota in advocating that all Members of the Senate support the amendment. The Senate overwhelmingly voted to do the same as it related to this institution, this body, in terms of not taking travel from lobbyists. The CPSC should have no less a standard. Consumers should feel safe that, ultimately, those products are going on the market not because of the influence of some trips a Commissioner took.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the Klobuchar amendment.

Ms. KLOBUCHAR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—96

Akaka	Crapo	Lautenberg
Alexander	DeMint	Leahy
Allard	Dodd	Levin
Barrasso	Dole	Lieberman
Baucus	Domenici	Lincoln
Bayh	Dorgan	Lugar
Bennett	Durbin	Martinez
Biden	Ensign	McCaskill
Bingaman	Enzi	McConnell
Bond	Feingold	Menendez
Boxer	Feinstein	Mikulski
Brown	Graham	Murkowski
Brownback	Grassley	Murray
Bunning	Gregg	Nelson (FL)
Burr	Hagel	Nelson (NE)
Cantwell	Harkin	Pryor
Cardin	Hatch	Reed
Carper	Hutchison	Reid
Casey	Inhofe	Roberts
Chambliss	Inouye	Rockefeller
Coburn	Isakson	Salazar
Cochran	Johnson	Sanders
Coleman	Kennedy	Schumer
Collins	Kerry	Sessions
Conrad	Klobuchar	Shelby
Corker	Kohl	Smith
Cornyn	Kyl	Snowe
Craig	Landrieu	Specter
Stabenow	Thune	Webb
Stevens	Vitter	Whitehouse
Sununu	Voinovich	Wicker
Tester	Warner	Wyden

NOT VOTING—4

Byrd	McCain
Clinton	Obama

The amendment (No. 4105), as modified, was agreed to.

Ms. KLOBUCHAR. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4094

The PRESIDING OFFICER. There is now 60 minutes equally divided on the Cornyn amendment. Who yields time?

AMENDMENT NO. 4124

Mr. DEMINT. Mr. President, I have an agreement with the chairman and the next speaker to bring up an amendment and then yield the floor. I ask unanimous consent to set aside the pending amendment and send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 4124.

Mr. DEMINT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike section 31, relating to garage door opener standards)

Beginning on page 85, strike line 22 and all that follows through page 86, line 8.

Mr. DEMINT. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 4094

Mr. CORNYN. Mr. President, the managers of this legislation, Senator PRYOR and Senator STEVENS, have introduced what I think is, by and large, a very good bill designed to protect consumers. As a matter of fact, I support the expansion of enforcement authority not only to include the Department of Justice, Federal law enforcement authorities, but also to deputize State attorneys general to seek injunctions for violations of the act. That comes from my experience as serving as the attorney general of my State for 4 years.

I think the State attorneys general can provide additional resources in their capacity as the chief consumer protection officer of their State to make sure that consumers are protected. Although in talking to my colleagues, the question was raised, well, if there is only an injunction sought, then why do we need a prohibition against contingency fees that might be paid to outside lawyers to whom this job would be outsourced? And the answer to that is, lawyers can get pretty creative sometimes and figure out a

way to pay an outside lawyer a contingency fee even when all the relief that is granted is an injunction.

I want to be clear about what this amendment is and what this amendment is not. This amendment has no bearing whatsoever on the right of an individual if they can't afford any other way to hire a lawyer than based on a contingency fee arrangement. Historically, since the days of England, or Anglo-American jurisprudence, we have recognized the contingency fee as the poor person's key to the courthouse; being able to sign a piece of their recovery, whether it is a settlement or a judgment of a court, as a way to get into court, to sort of level the playing field.

But this is not a case of a person who cannot afford to hire a lawyer unless they hire them using a contingency fee. We are talking about the Federal Government. We are talking about the State governments. And I think there are important reasons to make sure the people who represent the sovereign State of Texas and the other 49 States or the U.S. Government are accountable to the public and are not only in it as bounty hunters seeking to maximize their recovery without any sort of political accountability. That lack of political accountability happens when lawyers for the Government outsource their responsibilities, or at least the job of suing, to private lawyers but without any political accountability associated with it.

I would point out there are tragic examples of what I am talking about. It is not a hypothetical. Before I was elected as attorney general of my State in 1998, my predecessor hired outside lawyers to pursue tobacco companies in the much ballyhooed tobacco litigation. The justification for that was supposed to be that the money was going to be used to stop underage smoking and to try to make sure the public was well educated about the dangers of tobacco. Well, I am sorry to say, as a result of that litigation, the private lawyers hired by the then-attorney general of Texas received more than $3 billion—billion dollars—in attorney's fees that I believe should have gone to the State of Texas to help in those targeted sorts of programs.

There is no accountability. There is no reason the State or the Federal Government should have to outsource its responsibilities to private lawyers. And my amendment is designed to make sure that does not happen under the context of consumer protection.

We found out, though, what is being circulated by an organization that used to be called the American Trial Lawyers Association, now called the American Association for Justice—interesting selection of names—that is opposed to my amendment. It makes clear the concerns I had that ultimately this bill, which would provide only for the attorneys general to seek injunctions, is perhaps to be used as a vehicle to expand that to allow private lawyers, acting under the authority of the State attorneys general, to seek money judgments against any business they are big enough and bad enough to sue.

As you can see, in the fourth paragraph of this document, it says:

> Proponents of the Cornyn amendment are desperate to prevent an even playing field for consumers. Prohibiting the use of contingency fees will result—as the proponents of the amendment know it will result—in State attorneys general being wholly unable to utilize private attorneys in those very cases where litigation expenses and complexity make the assistance of private attorneys essential.

It is ironic, that it is the very outside lawyers—the trial lawyers—who hope to be hired by the State attorneys general to pursue that litigation who are opposing this amendment, even though they know that under the consumer product safety laws that are currently on the books it provides for the computation of a reasonable attorney's fee in the recovery and pursuit of a claim. As a matter of fact, it provides an attorney's fee based on actual time expended by the attorney in providing the advice and other legal services in connection with representing a person in an action brought under this law, such reasonable expenses as may be incurred by the attorney in the provision of such services, which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

So it is, unfortunately, clear this provision, in this otherwise good piece of legislation, is being used as a Trojan horse not just to protect consumers but to benefit outside lawyers and to have a lack of political accountability that is, I believe, required to make sure the lawyers who represent the United States of America in the Department of Justice or the State attorneys general conduct themselves in an appropriate and accountable sort of fashion.

I mentioned this before, and I will mention it again, that there are examples where this very arrangement has resulted in corrupt bargains. My predecessor's attorney general has just recently left a Federal penitentiary, having served time in prison because he used this outside fee arrangement basically to funnel money to a friend. So this is a very real and present problem.

It is clear the provisions that have been negotiated between the distinguished Senator from Arkansas and the distinguished Senator from Alaska, which would limit it to just seeking injunctions, that perhaps there is a design or plan or the possibility that this will be expanded in conference to include authorizing private lawyers to then sue small businesses and large businesses across the country and authorize the delegation or outsourcing of those responsibilities that the Department of Justice or these attorneys general have to outside counsel, with no accountability, and the very real prospect that there will be abuse and, in some cases perhaps, even corruption.

So I hope my colleagues will learn from the experience of the past, the sad experience of the past, where these sorts of arrangements have been entered into in a way that has resulted in not only not accomplishing the goals sought by the legislation but also outright corruption.

AMENDMENT NO. 4094, AS MODIFIED

Mr. President, I ask unanimous consent that my amendment be modified, with the changes at the desk, and I reserve the remainder of my time.

The PRESIDING OFFICER. The amendment is modified under the order.

The amendment, as modified, is as follows:

> On page 58, strike lines 4 through 7 and insert the following:
>
> ''(g) If the attorney general of a State obtains a permanent injunction in any civil action under this section, that State can recover reasonable costs and a reasonable attorney's fees from the manufacturer, distributor, or retailer, in accordance with section 11(f).
>
> ''(h)(1) An attorney general of a State may not enter into a contingency fee agreement for legal or expert witness services relating to a civil action under this section.
>
> ''(2) For purposes of this subsection, the term 'contingency fee agreement' means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.''.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time run equally.

The PRESIDING OFFICER. Is there objection?

Mr. CORNYN. Reserving the right to object, I did not hear the request.

Mr. PRYOR. I suggested the absence of a quorum and that the time run equally on both sides.

Mr. CORNYN. Mr. President, if I may, I will object only for the purpose of asking unanimous consent that the document that was depicted in the chart be made a part of the record following my remarks.

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

OPPOSE THE CORNYN CONTINGENCY FEES AMENDMENT—DON'T LET OPPONENTS OF STRONGER CONSUMER PROTECTIONS CHANGE THE SUBJECT AND WEAKEN ENFORCEMENT

(By the American Association for Justice (formerly ATLA))

Despite what the bill's opponents wish the Senate to believe, the CPSC Reform Act is not about plaintiffs' attorneys and it is not about allowing state officials to reward their friends or pursue a political agenda. Those are entirely spurious attacks by the bill's opponents, deliberately designed to change the subject and undermine the Senate's will to enact the bill's tough, new standards for manufacturers.

Congress has no business (and no constitutional authority!) telling state governments they may not enter into contracts that are perfectly legal under state law. Prohibiting

state attorney generals from entering into lawful contracts with private attorneys is designed for one purpose only: to discourage the use of the very enforcement tools that the CPSC Reform Bill sets out to enact.

Opponents of the bill know that occasionally state governments will lack the necessary financial resources or the requisite expertise to themselves handle complicated civil actions. In such cases, Congress has no constitutional authority whatsoever to deny these governments their right to enter into lawful contracts under state law.

Proponents of the Cornyn Amendment are desperate to prevent an even playing field for consumers. Prohibiting the use of contingency fees will result—as the proponents of the amendment know it will result!—in state attorneys general being wholly unable to utilize private attorneys in those very cases where litigation expenses and complexity make the assistance of private attorneys essential. It is ironic that the defendant corporations backing the Cornyn Amendment themselves employ dozens of outside counsel to protect their own interests in every state. State governments need the same flexibility to bring in additional resources, just as private corporations do.

Without the availability of the contingency fee system that has historically allowed state governments to utilize private attorneys, many successful consumer and environmental protection actions brought by state attorneys general would not have been possible. In the past, these actions have led to much faster removal of unsafe products from the marketplace and have protected children from extended exposure to lead paint and protected consumers from unsafe chemicals like arsenic in food and water and formaldehyde in homes.

The PRESIDING OFFICER. Without objection, the request of the Senator from Arkansas is agreed to, and the clerk will call the roll on the absence of a quorum request.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

AMENDMENT NOS. 4094 AND 4097

Mr. WHITEHOUSE. Madam President, I rise to oppose amendments offered to the Consumer Product Safety Commission bill by Senators CORNYN and VITTER. Before speaking about these amendments, I first commend Senator PRYOR for his important work on this bill. I know he has been working on this a long time and we are, as former State attorneys general, particularly pleased to see language in this bill granting State attorneys general the authority to obtain injunctive relief against entities that violate consumer protection laws. I know Senator PRYOR and other former attorneys general in this body understand that this authority is an efficient and effective way to enforce consumer protection laws. Unfortunately, the amendments offered by Senators CORNYN and VITTER would needlessly undercut these important protections.

The Cornyn amendment adds the following language to the bill. It says:

An Attorney General of a State may not enter into a contingency fee arrangement for legal or expert witness services related to a civil action under this section.

I oppose inclusion of this language in the bill. As an attorney general, I was involved in Rhode Island in a very significant piece of litigation which is now successful. We have won the jury case. It was filed on behalf of tens of thousands of Rhode Island children who either had been poisoned by lead in paint or were going to be poisoned by lead in paint if nothing was done. Without the ability to bring in a significant law firm to support my office's efforts, we would have been simply blown out of the litigation by the blizzard of dilatory tactics, by the paper blizzard that defense attorneys can specialize in. I can recall being forced to chase down a witness list of 100 witnesses to take depositions, not one of whom was called as an actual witness. I believe it was an effort to create a wild goose chase, to stretch our resources, to try to make these kinds of cases painful to attorneys general who might dare bring them. The ability of a State to authorize its attorney general or recognize the inherent authority of the attorney general to enter into these contingency fee agreements is an important part of that State's own law. Simply put, Congress has no business telling elected State attorneys general what kind of contracts they can or cannot enter into which would be perfectly legal under State law.

I am especially surprised to see what appears to be significant Republican support for this amendment since it contradicts a very basic principle—federalism. Congress ought to let the States, whenever possible, govern themselves. As a former State attorney general who has had this experience of taking on powerful corporations with essentially unlimited resources, I believe strongly that State attorneys general should not have their hands tied by Congress so that they cannot aggressively pursue and punish corporate wrongdoing on a level playing field. That is all they ask for.

I will oppose the Vitter amendment for similar reasons. This amendment requires State taxpayers to pay the legal fees and costs if a manufacturer prevails in a consumer protection suit brought by a State attorney general. This appears to be an effort to weaken this important bipartisan legislation. First, it would obviously discourage State AGs from bringing consumer protection cases in the first place. If it looks as though something went wrong with the case, you would have to find a way to fund your opponent's legal fees. Second, it places an unreasonable burden on State taxpayers. Why, for instance, should the taxpayers of Rhode Island have to cover the legal fees for an out-of-State, possibly even an out-of-the-United States foreign company that has been charged with violating our consumer protection laws?

As a former State attorney general, I well understand that these amendments will have a significant effect, diminishing the ability of State attorneys general to enforce consumer protection laws. If these are good consumer protection laws, we want to see them enforced. We don't want to discourage those officials charged with their enforcement.

I urge my colleagues to vote against the amendments of my friends Senators CORNYN and VITTER.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, before I make my remarks on the pending amendment, I ask unanimous consent to speak for 4 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

911 CALLS

Mr. STEVENS. Madam President, 911 calls are a lifeline for those in danger and essential for our public safety personnel to respond quickly to emergencies. Public safety communications are a priority for Senator INOUYE and myself as we work together on the Commerce Committee. In 1967, the President's Commission on Law Enforcement and Administration of Justice recommended that a single number be established to report emergency situations. AT&T established 911 as the emergency code throughout the United States.

I come to the Senate today to speak about one of my constituents, a 4-year-old named Tony Sharpe. He is a preschooler in North Pole, AK. When his mother collapsed and lost consciousness during a gallbladder attack, Tony knew to call 911 because his grandmother had sent him a children's book called, ''It's Time To Call 911: What To Do in an Emergency.'' Tony called 911 and his mother received emergency medical help. Tony proves that proper education about 911 can help save lives. As a matter of fact, Tony, again, in another emergency, his mother had called 911 when they lived at another location. Once again, he had the privilege of helping his mother.

This week I had the honor of presenting the E–911 Institute's Citizen in Action Award to Tony. He sets a fine example for young people throughout the country and Alaskans are very proud of him. Heroic actions such as Tony's led Senator CLINTON and me to introduce S. Res. 468. It designates April of 2008 as the National 911 Education Month to recognize the need for education about 911 and make people aware of how the system works with new technologies. Ensuring that 911 is compatible with new communications technologies is crucial to the safety and security of all Americans. The E–911 congressional caucus has worked to pass legislation to improve 911 service. Last week the Senate approved S. 428, the IP-Enabled Voice Communications and Public Safety Act. This act will require communications services to provide customers with 911 access and establish a framework for IP-enabled

voice service providers to coordinate with public safety entities. It also ensures that the next generation of 911 systems reach rural America and are available to Americans with disabilities.

The Commerce Committee has worked on this bill for several years. I look forward to working with the House to send this bill to the President as soon as possible. We want to continue to ensure that our 911 system keeps up with changing communications technology and that Americans of all ages know help is only a phone call away.

AMENDMENT NO. 4094

If I may, I want to say I am pleased to be here when the statement was made about the amendment of Senator CORNYN. I have been practicing law for a few years; as a matter of fact, for well over 50. I do remember several instances where we had to have counsel and expert witnesses. The difference here is, what Senator CORNYN is saying is a contingent fee arrangement as an attorney general enforces Federal law, a decision of the Consumer Product Safety Commission. We want them to do that. But if they need expert witnesses or they need outside counsel, they should make an agreement with them. If they succeed and get the decision they seek, they will be entitled to recover those costs under the bill we have before us. Reasonable costs will be recovered. But a contingent fee to be charged by an outside counsel or by an expert witness means that if the attorney general is successful without regard to whether those people are used, they will get one-third, whatever it is, contingent recovery from the defendant.

This bill does not contemplate that there is going to be an award of damages in the sense of a normal damage type case. This is an action authorizing the attorney general to enforce a decision and make that decision applicable immediately within his or her State. We are seeking an outreach for enforcement, not an outreach for getting damages, particularly for utilizing the services of buddy-buddy lawyers or buddy-buddy expert witnesses to get money from defendants as we seek to enforce the decisions of the Consumer Product Safety Commission.

I support the Cornyn amendment because I do not like the concept of contingent fees involved in expert witnesses or outside counsel when it comes to this type of enforcement of a Federal decision. It is a decision of the Consumer Product Safety Commission. It should not be the basis for recovery based on contingent concepts in this matter. I do want to make certain that everybody understands the Cornyn amendment. If it is not properly drafted, I urge that it be changed so that there be no question about the right of an attorney general to recover the cost of the expert witness or recover the cost of the outside counsel if it is necessary for the attorney general to have one. But I do not want to see contingency concepts entered into this type of arrangement.

I was in private practice involved in plaintiffs' litigation. I understand full well the concept of contingent fees. They have been very useful in the sense where an attorney takes on a case and represents a client and, in effect, will do so without any compensation at all if they lose. But when they win, they share in that success by having their fee based upon a contingency rather than upon an agreement based on an hourly basis or a retainment basis.

But this is not that kind of situation. This is for an attorney general—an official of the State—giving them, at their request, the authority to enforce the Consumer Product Safety Commission's decisions in their State immediately rather than wait for someone to come from the Consumer Product Safety Commission to their State and take action against those who should abide by the decisions of the Consumer Product Safety Commission.

I support this entirely. It broadens the concept of enforcement. That is what we are seeking, that for decisions of the CPSC, to have enforcement available in 50 States immediately, if the attorneys general wish to do so. That will mean taking these toys and other things off the shelves immediately. But it is not the kind of situation that requires or should need an expert witness.

Beyond that, why would someone need an outside counsel on a contingent fee to enforce what has already been decided by the CPSC? All that is necessary is action within the State giving an order to give the attorney general the authority to go take stuff off the shelf or to tell the manufacturer to cease and desist. That is not a situation that involves a normal plaintiff litigation opportunity.

So I do urge particularly the lawyers in this Senate to understand what we are doing. We are not creating a contingency-type litigation field. We are only creating a situation where enforcement of the CPSC's decisions are capably extended to 50 States immediately upon a decision, which I think is going to help children. It is going to help the parents.

It is not a situation that requires the employment of outside counsel or expert witnesses. But if some situation arises where it is necessary because of a challenge to the defendant, then the attorney general can employ them, can recover the amount in terms of both the attorney's fees and the expert witnesses on an agreement basis, not on a contingency basis.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I thank Senator STEVENS for his comments on the Cornyn amendment.

I oppose the Cornyn amendment for several reasons, although I must say Senator CORNYN has been very fair in his dealings on this amendment. We have sat down with him. I have talked to him several times on the Senate floor. But let me give you a few reasons I oppose this amendment. I know some other Senators want to come and speak.

First, we have to remember what we are doing in the context of this legislation. We have drafted a bill that contains a provision where the State attorneys general can enforce what CPSC says. We made it very clear in this statute that the State AGs must follow the CPSC. They cannot get out in front of the CPSC.

One of the concerns by some in the business community, in fairness to them—not all but some in the business community—is where they have had the concern that there are going to be 51 standards; that it is going to be a patchwork, a crazy quilt of AGs running around out there. That is not what we are doing in this legislation. I believe we drafted the legislation very clearly, where the attorneys general must follow the CPSC. The CPSC remains in the driver's seat. That is very important.

The second limitation on the States in this legislation is that the State AGs can only pursue injunctive relief. In layman's terms, what that means is there are no money damages. They can only pursue injunctive relief. If you think about it, given the nature of what we are talking about, I think it is going to be the rare exception when a State would ever want to use outside counsel because by the nature of what we are talking about, if they found some dangerous product that is in circulation in their State, they—in my experience as attorney general—probably will approach that business, and probably that business will immediately respond by taking corrective action. That is probably what happens 99 percent of the time because the company does not want the bad publicity. They do not want the legal headache. Once you point out to them they are in violation of some Federal law, they are going to pull those products off the shelves, whatever the case may be. So it is going to be very seldom used.

But in the event the company does not do that, in every case I have ever heard of—and I used to be the attorney general of my State of Arkansas—in every case I have ever heard of, when the attorney general sues—excuse me, has to hire outside counsel to do it—those are complicated and expensive and in some cases long-term cases.

This is not one of those kinds of cases. These kinds of cases will be that when they find some violation in their State, they will want to act quickly. They will not want to have to go through maybe an RFP process. Or in our State, we had a statutory process we had to get signed off on by the legislature, signed off on by the Governor. All that takes time; you have to negotiate a contract; you have to bid it. I am going to tell you right now, most

States are never ever going to use outside counsel when it comes to trying to enforce CPSC rules.

Another reason—and this is just a practical reason, where the rubber meets the road—they are not going to pursue outside counsel to help them because it is injunctive relief only. In injunctive relief cases, there is no money, so there is no way to pay for the litigation. I think it is going to be very seldom used.

Now, I have had brought to my attention—at least one and there may be more—fee agreements that have been negotiated where there is some sort of contingent fee based on injunctive relief. Again, I have never heard of that. I do not know how you enforce that. If you do a contingent fee based on some value of injunctive relief, that money is going to have to come out of the State's hide. It is not going to come out of the defendant in the lawsuit.

So there, again, I think people are concerned about this, and I do not doubt their sincerity but, really, I think you are going to see this happen very seldom, if ever.

The last couple of things I want to say about the States attorneys general before a couple of my colleagues come and talk on this bill and other matters are, we have to remember who the State attorneys general are. They are elected officials. They were elected by the same people who elected us. The people in their home States trust them. They like the fact that the attorney general is out there looking after the public interest. They like the fact that the attorney general is looking after public safety issues. I will guarantee you, they like the fact they are out there making sure unsafe toys are taken off the shelves. So the people of the States, they have elected the attorneys general to do things such as this.

My experience in Arkansas and in talking to other AGs around the country is the people in those States have a high level of trust and confidence in their attorney general. And they know—we may not always understand this—they know the attorney general will not abuse this right they will be gaining under our Senate bill.

This Cornyn amendment smacks of micromanagement. I understand what he is trying to do. I appreciate it and I respect it. Like I said, I do not think you are ever going to see any contingent fee cases anyway. But regardless of that—maybe you will under some circumstances—let's allow the States to make that decision.

Again, almost all these States have some sort of a legal process they have to go through before they can hire outside counsel. Let's let the States do it. These State AGs in most cases are elected by the people of the State. There are a few who are not. A few are appointed by the Governor; appointed in one case by the State supreme court. But, nonetheless, let them make that decision. We do not need to micromanage this. Let them do what they believe is in the State's best interest. That is what this bill is all about anyway.

So I oppose the Cornyn amendment. But I certainly appreciate Senator CORNYN reaching out in the manner he has to work with us on this legislation.

With that, Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I ask unanimous consent to be recognized to speak for up to 10 minutes and ask that the time not count against the Cornyn amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Thank you very much, Madam President.

First, I congratulate the manager of the bill, the Senator from Arkansas, Mr. PRYOR, on the outstanding job he has done to develop a modern framework for consumer product safety.

There was a time when I was the appropriator for the Consumer Product Safety Commission. Also, the Consumer Product Safety Commission is located in my State. I know what a consumer product safety agency does, I know what it should do, and I know what faithful, independent civil servants would want to do if they had the right leadership and the right authority.

I believe what the Senator from Arkansas has done is modernize the consumer product safety framework from when it was originally invented in the 1970s. Technology has come a long way. Products are more complex. Imports are on the rise. We know we need to modernize if we are going to protect Americans.

I view what the Senator from Arkansas has done as an act of homeland security because what is it homeland security does? It protects the American people from anyone who has a predatory intent toward the United States. I believe if you put lead in children's toys, if you knowingly look the other way when you make the blood thinner called heparin—that is a lifeline to so many people with heart disease—let me tell you, if you know you did it, and you know it is coming to the United States, or you are making something in the United States, standing up to protect the consumer is exactly an act of homeland security, and I congratulate the Senator in doing it and the bipartisan coalition he has put together. So he can count on me to support the bill.

But like any good idea, it can be improved. That is why I am here today. I have an amendment I wish to discuss that requires any food that comes from a cloned animal or progeny to be labeled. In other words, cloned animals have now been approved by the FDA to be safe for human consumption, even though most Americans actively oppose cloning and scientists say we should monitor it.

I have always taken the position that consumers have a right to know, they have a right to be heard, and they have a right to be represented. Yet when we talk about cloned food entering the marketplace, if it enters the marketplace, it has been deemed safe by the FDA, but when it comes to your table, to the restaurant, to school lunch programs, it will be unidentified, it will be unlabeled, and it will be unknown to you. Well, I find that unacceptable.

Here we have a picture of Dolly. Sad, isn't it? But nevertheless, Dolly is the first cloned animal. Dolly, or cows, or other animals, have been deemed safe to enter our food supply. So you could walk into a restaurant and you could have a ''Dolly-burger.'' You could go to a fast food chain or maybe that local malt shop that has so many fond memories for you in Missouri and you could have a ''Dolly milkshake.'' You could have ''Dolly in a glass.'' You could have ''Dolly on a bun.'' You could have ''Dolly on the table.'' You could have ''ground Dolly,'' ''pattied Dolly,'' ''roast Dolly,'' ''pot roast Dolly.'' But any way you have Dolly, you would not know you were eating Dolly. I say that is not acceptable.

What I wish to do, if appropriate, is offer an amendment to the consumer product safety bill, even though it is regulated by the FDA—and I acknowledge that—that would label them as being from cloned animals or their progeny.

Now, in this bill, we look out for toys, strollers, appliances and all of that is right and I salute my colleague, as I have said. But I also wish to look out for the food we put on our table.

People say: Well, Senator MIKULSKI, hey, the FDA approved it. Well, the FDA used to be the gold standard, but we have heard ''it is safe'' for too long. We were told asbestos was safe, but I have men who worked in the Baltimore shipyards who traded in their lunch bucket to carry an oxygen tank because of the lung disease they have. We were told DDT was safe. Do you want to be sprayed with DDT? Then there were people who said thalidomide was safe. No pregnant woman would take it today. Then Vioxx was safe. Would anyone with a heart condition or cholesterol want to take it?

So there are a lot of flashing yellow lights around FDA. Where are they the weakest? In postapproval surveillance. But you can't surveil unless you know there is a problem with a product.

The National Academy of Sciences said cloned food might be safe, but the science is too new. We need to monitor it. But you can't monitor it unless you know where it is. That is why I am for labeling. Labeling would tell us where the food is and we could do that postmarket surveillance.

I don't know why there is an urgency to do this—to have cloned food enter the marketplace. What labeling would do is it would give consumers the right to know that it is there. It would allow scientists to monitor. Also, it would protect our export markets.

I have talked about why it would be good science to have labeling so we can monitor and why consumers want to know, but what about the export deal? Well, you know what I worry about? I worry about our food being banned from exports because they don't know if cloned food is coming into their country.

There are those who already called our genetically altered products ''Frankenfood.'' They call it Frankenfood, and they don't want it to come in.

Our European trading partners have exhibited consistent concern about genetically altered products. My State exports food, particularly chicken. We are a big chicken State and chicken-producing State. We share that with the Senator from Arkansas. It has helped save our agricultural interests down there. So I want us to be able to export, and that is why I want whatever is cloned or its progeny to be labeled.

While we see Dolly in this photograph, I have to wonder what cloned food accomplishes. We don't have a shortage of food in our country. We don't have a shortage of milk in this country. For those who want to produce Dolly, we can't stop it, but we should stop the effort to put cloned food into the food supply without labeling and without informed consent. At the appropriate time, I will offer this as an amendment.

At this time, I wish to again thank my colleague for the wonderful job he has done. I am glad to be part of the effort. We need more fresh and creative and affordable solutions such as the Senator has done.

I yield the floor.

Mr. PRYOR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Madam President, I ask unanimous consent that during this quorum call, the time run equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEMINT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4124

Mr. DEMINT. Madam President, I want to speak for a few moments on my amendment No. 4124, which focuses on section 31 of the underlying bill, the Consumer Product Safety Commission Reform Act. This section deals with garage door openers.

It is important, obviously, as the bill that addresses safety, to look at issues such as garage doors. I remind my colleagues that the whole reason for the Consumer Product Safety Commission is to evaluate the safety of various products. When we as a Senate or as a Congress as a whole take it upon ourselves to determine what is safe and what is not, we basically violate the principle of what we are trying to do—particularly when we get into even more detail, where we attempt to prescribe the particular technology that has to be used on certain projects before it is deemed safe. That totally goes around the idea of an expert panel on this commission, with the testing lab that we are going to fund, using their expertise and resources to determine the safety of a product.

This particular section, I am afraid, takes one particular technology that is only used in one product in one State and says that has to be the technology used on all garage door openers. This is something that, as a Senate, we all need to stop at this point. The precedent that it establishes for us to prescribe a particular technology violates everything we are trying to do here.

Let me talk specifically about it for a few minutes. Section 31 mandates that all garage doors in the United States include a device that doesn't require contact with an item or person, using photosensors, while prohibiting the sale of other technologies, namely the touch technology, in the United States.

Most new garage doors in this country—automatic garage doors—use a technology where if it touches something on the way down, it stops. It generally uses the pressure of about 15 pounds.

Specifically, the section states:

> Notwithstanding section 203(b) of the Consumer Product Safety Improvement Act of 1990 . . . 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.

Keep in mind that it has been deemed safe to use the technology that is being eliminated by this bill. The language explicitly says ignore the experts at the Underwriters Laboratories. This effectively requires all garage doors to include a photosensor at the bottom of the door that reverses the door direction.

Why is this a problem? This provision puts Congress in the position of picking and choosing winners and losers in a highly technical area of safety regulation. No Senator has the expertise to determine what is a safe garage door technology. Most of the Members of this body are lawyers or businessmen, physicians and veterinarians, and we should not substitute the judgment of Senators who, by and large, have no technical background for the expertise of the engineers at the Underwriters Laboratories. By legislatively mandating that only one technology is safe, we are doing just that—requiring garage door manufacturers who sell garage doors to include these devices, increasing the cost to consumers, and it discourages innovation in the future. If we say this is the technology that has to be used, then the chances of new technology which improves safety and convenience in the future are diminished. Legislatively mandating that only one type of technology is safe enough for us in the United States will also help certain companies at the expense of others and discourage innovation in one of the areas where innovation is most important and should be encouraged, which is consumer product safety.

This will mandate away free market competition. It will boost the sales of companies that sell this required technology while hurting the sales of those that do not.

The Door and Access Systems Manufacturers Association, which is an association representing garage door manufacturers, recently voted on whether they would support this provision. They voted 14 to 1 to oppose the provision. I will let you guess who the one vote was that voted against it. It was Chamberlain, the company that makes the technology that is required in this legislation.

The inclusion of this provision in the Consumer Product Safety Commission Reform Act represents why the American people do not trust Congress. It represents Washington politics as its very worst. After the experts approved a competing technology for sale in the United States, this one company, Chamberlain, retained a high-powered lobbying shop in Washington and paid them in excess of $140,000 to secure inclusion in this provision. Because of the connections to the lobbying firm, it was able to secure proposed Federal legislation that would protect its company from competition.

Is the technology that the bill mandates the only safe technology? Not at all. According to the experts at Underwriters Laboratories, the technology the bill mandates is safe, but it is not the only safe technology. The Underwriters Laboratories, through its standard product certification process, has certified another technology as safe, which does not use a photosensor but uses approximately 15 pounds of resistance to trigger a reverse on the door.

For example, according to the Architect of the Capitol, the doors of the Senate subway that we all ride on, which carries thousands or maybe millions of people per year from the Dirksen to the Hart Senate office buildings, uses touch technology. If it touches an

object that provides more than 30 pounds of resistance, the doors will pop back open. The Senate daycare also uses the same technology on its doors, which reopen if they touch an object with 8 to 15 pounds of resistance. Thus, the technology that the Underwriters Laboratories found safe, which this bill deems unsafe, requires less resistance than the Senate subway doors and approximately the same resistance as the Senate daycare doors to reverse the course.

The fact is that touch resistance technology is being used all over our country today very successfully and safely. This bill prohibits its use in the future. The reason it prohibits it is one of the reasons people don't trust us here—because it is clearly not there to make America and American products safer, but to do a specific favor for a constituent with a lobbying firm that puts pressure here on Congress.

Why do my colleagues need to support striking section 31? As I have said several times, I think it represents the worst of the legislative process here, and we all know better. Congress should not use its power to override the opinions of congressionally designated experts, unless we have proof they are wrong. We should not promote legislation that would pick winners and losers in the marketplace. We should not pass legislation that would discourage innovation, especially when it comes to ensuring we have the safest technology possible to protect our children.

By striking section 31 of the Consumer Product Safety Reform Act, this amendment would give the experts at Underwriters Laboratories the final say in determining what technologies are safe for sale in the United States. The amendment would not give a competitive advantage to any company, and it does not strike any safety provisions. It simply restores the law to where it is today. It would only require that the experts decide what technologies are safe in the United States, which is the purpose of the whole bill. We give more funding to the Commission. We give them a more sophisticated testing lab to use. We are empowering the best experts in the country. It is not our job to come in and try to give one company an advantage because it happens to be in the State we represent.

Mr. President, I hope all of my colleagues will support the amendment to strike section 31 from the underlying bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, let me say that, again, I thank the Senator from South Carolina for being very constructive during this process and working on this legislation this week. We sat with him and his staff on a number of occasions to try to work through language in amendments. He has been a delight to work with on this matter. I appreciate that.

Let me talk about this garage door provision that is in the Senate bill. I think it is important for colleagues to understand the history of why, and why it is in there. You can look at existing law and, basically, what the Congress did years ago was to more or less allow Underwriters Laboratories to set the safety standards for garage doors. For years and years, there was a two-part safety standard. One dealt with pressure for a motorized garage door that, when it hit a certain level of pressure, would stop and reverse, and also some sort of noncontact systems, where if someone were to pass under the garage door, such as a baby crawling or whatever it may be, it would trigger these sensors and the door would never come down and touch in the first place. That has been the standard in this country for a long time.

But what has happened over the last year or so, UL has changed their standards and they have actually gone, in my view, backward by saying this pressure sensor is enough. They have updated the standard—and I may be overgeneralizing that a little, but they are basically saying you don't need that second safety mechanism. We all probably remember the years of the 1970s and 1980s when it was common for garage doors to kill people. It is not as common anymore, and power garage doors are much more common today than they used to be.

In section 31, we tried to not just restore the old law, but we tried to enhance it and improve it. This is what it says:

> 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.

This is a technology-neutral provision. Many companies make this laser technology we have all seen. I used to have one on my garage door where there is a mechanism that shoots a little beam of light. When you interrupt that contact somehow—I don't know exactly how it works—it triggers the door, stops it, and it opens. That is actually a fairly cheap piece of technology. I have heard estimates of that technology costing something around $10 per door. I am sure it depends on the brand, who installs it, where you buy it, et cetera. Roughly, as I understand, it is about $10 per door. It is very cheap, very inexpensive, very effective. That is the traditional laser technology.

As we might expect in today's world, there are all kinds of new emerging technologies. We do not know what the future holds. We do know that this technology the automakers are putting on their bumpers now, the reverse indicator, the backup warning—when you are backing up your car, some cars that have this technology will beep when you get too close to an object behind. Apparently, as I understand it—do not ask me to explain it in any detail—apparently, that is some sort of radar technology. Again, it is pretty cheap and pretty effective. Supposedly, the garage door people are coming up with some sort of new radar technology that some believe may be better or may be a good alternative, at least, to the laser technology. Apparently, there are other types of motion sensors. Again, I don't know all the technology, and I don't know how the technology is going to emerge.

What we are trying to do with this provision in this act is, quite frankly, have a little belt-and-suspenders here. We want to make sure we have two safety mechanisms on doors. That has really been, again, what Underwriters Laboratory set as the U.S. standard for years and years. Now they reversed that standard. I think they are going in the wrong direction. They are going back to basically one type of safety device, not having two per door. This is a stronger safety provision than what is currently under U.S. law.

Another point I wish to mention is there has been some discussion that this might set a bad precedent for us, the Congress, to set a safety standard; isn't this what CPSC is supposed to do? The answer is yes, this is what they are supposed to do, but there are many occasions where the Congress has specifically laid out safety standards. I will give a few: lawn mowers; garage door openers; bicycle helmets; a toy that has been banned called Lawn Darts that was unsafe, and Congress actually banned it; lead-lined water coolers. There are safety standards Congress has mandated on refrigerators and other products. Certainly, we authorize CPSC to come up with a lot of safety standards, and they should; they are the experts, but there have been many occasions in the past where Congress has laid out a safety standard for a specific product or specific item.

Here, again, this approach we are utilizing in section 31 is a little bit redundant. With safety, it is not all bad to be redundant. It is a little bit of belt-and-suspenders. Again, it basically would reestablish a previous standard in the United States that when you have a power garage door, there would be some sort of pressure mechanism with the motor, that when it feels the right amount of pressure, it will stop and reverse.

Also, there will be some, as it says, external secondary entrapment protection device. In other words, it would be separate from the motor. This is a very technology-neutral, very vendor-neutral phrase, and we will let the industry sort out what an ''external secondary entrapment protection device'' may mean because there may be technology on the drawing board today we know nothing about, maybe designs of these garage door systems about which we know nothing. Nonetheless, we want to make sure we have that double protection.

Mr. DEMINT. Will the Senator yield?

Mr. PRYOR. Absolutely.

Mr. DEMINT. Madam President, I appreciate the Senator's comments. I do wish to make it clear that while Congress has set many safety standards, it is very unusual for us to select and prescribe the technology that will be used to achieve those standards. For instance, a bicycle helmet has to take a certain amount of impact, but we do not prescribe what that helmet is to be made of. We do the same with automobiles and impact. We need to tell the safety labs, the manufacturers, what standards they have to achieve, but when we start picking the technology, we get way out of bounds.

I have the UL standards in front of me. I just need to clarify what my colleague from Arkansas said because the standard does require a primary reversing system as well as a secondary reversing system. So currently, most garage doors are going to have a system in the motor, and if it senses resistance, it will reverse, and there needs to be a secondary system. The way that is done today is either by some photo type of mechanism where if something crosses the path between the door and the bottom, it stops and reverses. That is one way. The other way is pressure sensitivity along the bottom of the door itself. But what the underlying bill does—the UL standard is it has to be an equivalent secondary safety measure; it has to be the photo type of system or the touch system. But this bill says it has to be the photo system. Frankly, from what we understand from talking with some consumers, there is not necessarily a lot of satisfaction with just the photo system because a door that goes down can be opened by a leaf blowing underneath it. But the touch system has been deemed just as safe by the Underwriters Lab, but it does not have the same inconvenience.

What we are asking is that we stick to the standards that are here, that we have a primary and a secondary reversing system but we allow the industry to pick whether it is a photo type of reversing system or a touch system, and let the UL system we have set up, the Consumer Product Safety Commission, determine which is safe and which is not. This bill says that only one way is safe for the secondary reversing system. Actually, the industry has already proven that there are other safe ways to do it which we need to continue to allow.

Again, I thank my colleagues for the opportunity to debate. I appreciate the intent of this amendment, which is to make garage doors safer, but I think we can leave the technology to the Consumer Product Safety Commission.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I rise today to oppose the DeMint amendment No. 4124 and explain why the garage door safety provision in the Consumer Product Safety Reform Act is really important.

Garage doors inherently pose a risk to families, particularly small children who could be crushed by the doors. The doors often weigh more than 300 to 400 pounds. Many families open and close them a lot of times during the course of a day. The 12 inches between closing the door and the floor, they call it the crush zone. A tremendous amount of force is generated as gravity pulls this 300- or 400-pound door down and it starts to come to the floor of the garage. This crush zone is a real risk for children, particularly small children. Small children live close to the ground—we all know that—and they are always in the crush zone when they are near a garage door.

For some time, this has been a serious risk. In the 1970s and 1980s, 67 deaths caused by garage doors were reported to the Consumer Product Safety Commission, and there were even more serious injuries. Most of these were caused by entrapment under the door.

Congress stepped in and passed legislation in 1980 that included a garage door safety standard requiring that doors have what is called an external secondary entrapment device. We directed Underwriters Laboratory to modify its standards. We gave it the force of a product safety rule.

The primary device most often is the drivetrain of the garage door. When there is an obstruction in the door's path, the drivetrain reverses. So if the door is coming down and senses something, it goes back up. In other words, when the door hits a person or object, the drivetrain will reverse. Unfortunately, this primary device does not always do the job adequately. That is why Congress required a secondary device to protect consumers.

The secondary device deployed by garage door installers for the past 15 years has been an optical sensor. This is technology that anyone who has owned a garage door over the last 15 years is familiar with. If you do not know it, go home and take a look. When your garage door comes up, look down at the bottom near the guide on one of the sides of the garage door, and you will see a tiny little photosensor light. It is like a beam of light. It is trained on another receptor on the other side of the garage door opening. It creates this photosensor. If you walk across that between those two devices, you trip it, and the garage light usually goes on, and the garage door knows someone is there, don't let the door come down.

We are trying to make this standard so no matter what kind of mechanical device you have that brings the door down, you are always going to have the secondary noncontact sensor. The door does not have to hit me in the head to turn around. I can trip it by walking through that doorway and breaking that photosensor light.

Senator DEMINT wants to eliminate that safety requirement. He believes it is unnecessary. First, let's put it in perspective, if we can.

How much do you think those little light devices cost? The answer? Five dollars. That is what it costs to buy those two little photosensors, one on each side of your garage door.

How much does a garage door cost? It is about $200 or $300 for the device to move it up and down. You can pay up to $1,000 for the whole door; $5 for the photosensor to save the child who is walking into the garage versus the $1,000 for the door. Is it worth it? If it is my kid, it is worth it. If it is my grandson, it is worth it. If it is about the neighbor's kid whom I dearly love, too, it is worth it.

Well, Senator, you didn't tell us how much it costs to install it. It turns out it costs $15 to install it—$20 total cost for this safety device on a $1,000 garage door, and Senator DEMINT says we don't need it.

Underwriters Laboratory that he quotes, in fairness to him, has been in the midst of deciding whether we move away from the photosensor to not requiring it. But they come out with a minimum requirement for safety.

What I am suggesting is, it is worth 20 bucks to every garage door owner and installer in America and to every family to have the peace of mind of this safety. Is it worth one kid's life, $20? I think it is worth a lot more. I think it is worth a lot for us to include it, and I am glad it is in the bill.

The secondary device deployed by garage door installers, as I said, for 15 years has been this optical sensor. It is not new, questionable technology. It works. I have seen it work on my own garage in Springfield, IL. I wondered why the garage door wouldn't come down. Finally, I figured it out. The optical sensor lights were not tracking on one side. A simple little adjustment, and everything worked fine. The minute I crossed those lights, the garage door mechanism knew not to close. When an object breaks the beam, the garage door reverses.

Since this requirement has first been put into effect, during the last 15 years, injury and fatality rates by garage doors have dropped dramatically—dramatically. An ounce of prevention, that is what we are talking about here, a $20 expense to make sure a child is not injured or crushed by a 400-pound garage door coming down.

The Underwriters Laboratory standard for garage doors was modified in the late 1990s to allow for a new type of technology to serve as the secondary device. That technology, like the primary device, required direct contact. The problem with this standard is it relies entirely on contact when an effective, inexpensive system that does not require context exists.

Underwriters Laboratory is a fine organization. I have worked with them over the years, and I really believe they do a good job. But they do not provide maximum protection. They provide minimum protection. This bill, asking for another $5 device and $20 total cost, is going to provide even more protection for families.

Who supports this bill? Who supports this amendment that Senator DEMINT wants to strike? The Consumer Federation, the Consumers Union, U.S. PIRG, and Public Citizen. Those four are the leading groups on consumer safety in America today. None of them work for any companies. They work for the common good, for families across America, trying to make sure safety and consumer interests are protected. They joined in a joint letter saying they support the language that is both appropriate and protective of consumer safety and that a noncontact sensor is a valuable safety requirement.

I know my friend has offered this amendment in good faith, but I would tell him, I believe that requiring this photosensor and protecting kids who might wander into this crush zone is not too much to ask. I would rather vote for this and have somebody say it is belt and suspenders than to have on my conscience that we walked away from this tiny, almost insignificant cost to the garage door, than lose a child's life in the process. That would be something which would be hard for me to reconcile.

So I urge my colleagues to join the leading consumer groups across America, join the cause of common sense, and be willing to put a $20 cost onto a garage door and possibly protect the life of an innocent child.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, I would like to clarify some of the facts my colleague is talking about because there is nothing in my amendment to strike or prohibit the use of this phototechnology. If that is deemed the safest by the manufacturer, then certainly it can be used. But the secondary reversing device that uses touch technology has had no injuries. It has been deemed safe as well. In the future there are likely to be even better and safer and maybe even more economical ways to make garage doors safe.

The reason we need to strike this provision is because it limits consumer safety to one idea—one idea that exists today. It prescribes for the UL laboratories that it has to be done this particular way instead of us saying, as a Congress, it has to be safe. If we want to prescribe those standards, that is fine, but I am afraid we are distorting the information. We need to allow the opportunity for innovation in safety in all areas.

There is nothing that says this phototechnology is any safer than the touch technology we have talked about, which is another option being used by garage door companies today. So the argument to keep this in is totally parochial. It is not about safety for children, which has been spoken about today.

We believe the current standards that have a primary and secondary reversing system are important and that we need to encourage manufacturers to innovate on the safest ways to make that happen and that the labs we have put in charge of determining safety can look at these different ways to make garage doors safe and tell us which ones are the safest and tell consumers which ones are the safest. It makes absolutely no sense, and it is a terrible precedent for us as a Senate to come in and say: This is the technology that always has to be used in order to be safe, and we have no standard associated with it. We say, this is the technology.

Our job is to set the safety standards and say products should be safe, not to act on behalf of companies that happen to be in our States and say you use their technology or you don't use any at all. That is not what my amendment says. My amendment says: Find the very best technology, make it as safe as possible, but don't prescribe how that has to be done.

Madam President, I yield back.

Mr. PRYOR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Madam President, I ask unanimous consent that the vote in relation to the Cornyn amendment, No. 4094, as modified, occur at 4:45 p.m., with the provisions of the previous order remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I wish to address my colleagues here for a minute and tell them about our status and what we are trying to accomplish this week. Of course we are on the Consumer Product Safety Commission reauthorization bill.

Again, I thank all my colleagues on both sides of the aisle for their spirit of cooperation that we have seen all week. It has been exemplary. I appreciate it. I have told several of you that privately and publicly. It has been great.

Our status is right now we are going to have a vote at 4:45 on the Cornyn amendment. It deals with attorney's fees with regard to attorneys general. We are going to have a vote on that.

Then we would love to set up more votes tonight. We have several amendments that have been filed that are pending. It is not a long list, but we do have several. We would love for Senators, if at all possible during this vote, to come and talk to me or talk to Senator STEVENS or talk to our staffs about how you wish to see your amendments sequenced.

I think it is very realistic that we can finish this bill tomorrow. At some point tonight, we are all going to sit down and begin to work very diligently on a managers' package. We have had several amendments, noncontroversial, or that we have made modifications to. There has been a lot of progress made. I know sometimes when you watch the Senate you wonder if anything is going on. A lot of progress has been made. Again, I thank all of my colleagues for that.

So we are going to sit down tonight and work through a managers' package. If a Senator wishes their amendment included in the managers' package, please let me or Senator STEVENS know. We are going to be working on that very diligently tonight. That is where we stand.

We encourage people, if they want votes for their amendments, to please let us know. We encourage people to come in and talk about their amendments. We encourage Senators to work together and either try to get their language included in the managers' amendment or have a vote on it tomorrow or tonight. We would love to have some more votes tonight. We think there are at least one, two, or three that we may be able to vote on tonight, realistically. So I wanted to alert Senators to that fact.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Mr. President, if I can engage the Senator from Arkansas for a minute to clarify. I do have this amendment that is germane that deals with a chemical that has shown up in microwave popcorn and has proved to be fairly deadly to workers; in one case at least that we know about, in consumers.

I understand we are having a vote in 5 minutes. Would it be amenable if I spoke about this amendment? I believe it is at the desk. The amendment is at the desk. If I could speak about it until it is time to vote. Would that be something you would encourage?

Mr. PRYOR. Yes. I have no objection to that. We have spoken on the Cornyn amendment extensively.

Mrs. BOXER. Thank you.

The ACTING PRESIDENT pro tempore. The majority's time has expired.

Mrs. BOXER. I have the time.

The ACTING PRESIDENT pro tempore. The Senator from Texas controls the balance of the time.

Mrs. BOXER. I am confused. Can someone explain that—I had the time. I was recognized by the Chair—as to why I do not have the time?

The ACTING PRESIDENT pro tempore. There was a previous order allocating 10 minutes, and the majority's time has expired.

Mrs. BOXER. I ask unanimous consent that I have 2 minutes before Senator CORNYN to explain this amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mrs. BOXER. I would add 2 minutes, if that is okay, and then I am done.

Mr. CORNYN. Reserving the right to object, and I will not object, I am happy to do that as long as I preserve my 5 minutes before the vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. BOXER. Of course that was my intent, Mr. President. I mean no disrespect in any way.

AMENDMENT NO. 4127

I wanted an opportunity to talk about an amendment that I have at the desk. It is germane. It would ban certain uses of a chemical that poses very serious health risks to the lungs of consumers and workers.

In recent years, scientific evidence has mounted that a chemical called diacetyl seriously harms the lungs of workers in factories making microwave popcorn. I am sure you have read about it, because there is a huge list of stories that appeared in the press about doctors linking illnesses to this particular chemical.

Also there is documentation that says that the large popcorn manufacturers have banned this chemical. But we do not have a ban in law, which means it is simply not fair. We have some companies that have banned it, but we have not acted to ban it. I think it is so dangerous. It causes the tissue inside the lungs to get clogged and creates scar tissue and inflammation and it leaves the victim struggling to breathe.

That is the reason Senator KENNEDY has teamed up with me on this amendment. The severity of the lung symptoms can range from only a mild cough to a severe cough, shortness of breath. These symptoms do not improve when the worker goes home at the end of the day, and severe symptoms can occur suddenly. The worker may experience fever, night sweats, and weight loss. Doctors were very puzzled, but they finally found a link with this chemical.

I am not going to go on. I have a lot more to say on this. I hope it will not be necessary for us to have an argument about this, since the large companies have already banned it. It seems to me only right that we follow their lead and do so in law. My amendment simply levels the playing field for all microwave popcorn makers, including importers and small manufacturers, by banning this chemical, diacetyl. I urge my colleagues at the appropriate moment to please support this.

I will say to the Senator from Arkansas, Mr. PRYOR, if it is possible, I hope this will not be controversial. Perhaps it could be part of the managers' package.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

AMENDMENT NO. 4094, AS FURTHER MODIFIED

Mr. CORNYN. Mr. President, I ask that my amendment be modified with the changes at the desk. My modification makes clear that the expert witness fees are part of the recoverable costs and fees that the State attorneys general can recover. I appreciate Senator STEVENS for raising this concern to me and hope my modification is responsive to his concerns.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Texas has already been authorized.

The amendment, as further modified, is as follows:

On page 58, strike lines 4 through 7 and insert the following:

''(g) If the attorney general of a State obtains a permanent injunction in any civil action under this section, that State can recover reasonable costs, expert witness fees, and reasonable attorney fees from the manufacturer, distributor, or retailer, in accordance with section 11(f).

''(h)(1) An attorney general of a State may not enter into a contingency fee agreement for legal or expert witness services relating to a civil action under this section.

''(2) For purposes of this subsection, the term 'contingency fee agreement' means a contract or other agreement to provide services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.''.

Mr. CORNYN. Mr. President, first we are told that the reason why State attorneys general need to be explicitly authorized under this statute to pursue these consumer complaints is so there is no risk of runaway lawsuits, because they will be confined to seeking an injunction in Federal court. I actually support that provision of the bill.

Then we are told there is an objection to my amendment, which would prohibit State attorneys general from entering into contingency fee arrangements in order to pursue authorized activities under this bill, that there is no reason for the amendment. Next thing I know, there is a document circulated by the American Trial Lawyers Association arguing the only way consumers can get access to the court is by allowing the outsourcing of the responsibility of the State attorneys general under a contingency fee arrangement which makes me mighty suspicious whether this is, in fact, a Trojan horse to allow trial lawyers basically to do the work elected State attorneys general should be doing and that currently the Department of Justice is doing. All my amendment is designed to do is to make sure the purpose for which the State attorneys general are authorized—that is, to seek an injunction only—is maintained and that it not be allowed to serve as a Trojan horse to outsource these responsibilities. There are some very important public policy reasons for that. No. 1, trial lawyers hired by State attorneys general are not accountable to the public.

We have seen examples. I mentioned some in the tobacco litigation, where there were serious abuses that could not be rectified by the electorate when it came to holding public officials accountable. Those public officials in some cases left office; some, such as my predecessor, as attorney general in Texas, went to Federal prison because of misconduct associated with those kinds of arrangements. This amendment is prophylactic in nature. But I will tell you I am concerned it has been mischaracterized. It will not prohibit State attorneys general from contracting with outside lawyers on an hourly rate arrangement under the same circumstances under which lawyers can be reimbursed now. But it will prevent the sort of trophy hunting and the outlandish attorney's fees that were awarded in the tobacco litigation through these contingency fee arrangements. It is something that is within the power of this body to correct. I hope my colleagues will join me in passing this commonsense amendment which is entirely consistent with the underlying purposes of the bill. I worry this is being used as a Trojan horse for other purposes. But if my amendment is passed, I think we can all lay this matter to rest and realize consumers will be protected, but it will not be used as a pretext for enriching private lawyers and political constituencies.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. CORNYN. My understanding is there was 10 minutes divided. If there is no other response, I will yield my time back, if the majority yields back their time.

Mr. PRYOR. I yield back my time.

The ACTING PRESIDENT pro tempore. All time is yielded.

Mr. PRYOR. I move to table the Cornyn amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER (Mr. LEAHY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—51

Akaka	Cantwell	Durbin
Baucus	Cardin	Feingold
Bayh	Carper	Feinstein
Biden	Casey	Harkin
Bingaman	Conrad	Hatch
Boxer	Dodd	Inouye
Brown	Dorgan	Johnson

Kennedy	McCaskill	Salazar
Kerry	Menendez	Sanders
Klobuchar	Mikulski	Schumer
Kohl	Murray	Smith
Landrieu	Nelson (FL)	Specter
Lautenberg	Nelson (NE)	Stabenow
Leahy	Pryor	Tester
Levin	Reed	Webb
Lieberman	Reid	Whitehouse
Lincoln	Rockefeller	Wyden

NAYS—45

Alexander	Craig	Lugar
Allard	Crapo	Martinez
Barrasso	DeMint	McConnell
Bennett	Dole	Murkowski
Bond	Domenici	Roberts
Brownback	Ensign	Sessions
Bunning	Enzi	Shelby
Burr	Graham	Snowe
Chambliss	Grassley	Stevens
Coburn	Gregg	Sununu
Cochran	Hagel	Thune
Coleman	Hutchison	Vitter
Collins	Inhofe	Voinovich
Corker	Isakson	Warner
Cornyn	Kyl	Wicker

NOT VOTING—4

Byrd	McCain
Clinton	Obama

The motion was agreed to.

Ms. CANTWELL. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have had a conversation with the Republican leader—in fact, several of them. I have talked to the two managers of the bill, Senator STEVENS and Senator PRYOR. We have made very good progress on this bill. As I said when we opened this morning, I think this is a good way to legislate. We are on this piece of legislation. It is a bipartisan bill that the Commerce Committee spent days of their time working on to get to the point where we are now. Is it a perfect bill? From my perspective, it is really good. Others who know the issue better than I may not think it is perfect, but I think it is a pretty good piece of legislation. We have had a number of amendments offered, and we have voted on several of them.

At this stage, there is nothing that I think we can vote on tonight. I want the managers to work during the evening to see if there is something we can do tomorrow constructively to move toward finalizing this.

The Republican leader and I usually don't agree on issues such as this, but I think it would be to the benefit of the Senate if—before we go out tonight, I am going to file a cloture motion, just to protect us in case it appears we are not going to be able to finish. I have told Senator STEVENS that when I file that tonight, I will say—and I will say it here—that we can go to third reading anytime tomorrow when this issue is over with and we, of course, won't do the vote on cloture. If this doesn't work, then Friday we will have to have a cloture vote. So I hope everyone understands the good intentions of the two managers and everyone else who has been involved in this piece of legislation.

So I will come out later tonight and formally file a cloture motion. Until then, I hope more progress can be made on the legislation. I think it is fair to say there will be no more votes tonight.

AMENDMENT NO. 4096 WITHDRAWN

Mr. KYL. Mr. President, I ask unanimous consent that the DeMint amendment No. 4096 be withdrawn.

The PRESIDING OFFICER (Mr. REED). Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, just to reiterate what the leader said a few moments ago, we are making great progress. Again, I thank my colleagues on both sides of the aisle. Everyone has been very reasonable.

My sense is that this body really wants to get this done tomorrow. I can tell my colleagues right now that our staffs will be working, burning the midnight oil tonight trying to put together a managers' package. We made progress during this vote, with one or two amendments going away.

So thank you to all of my colleagues who have been working so hard to get us where we are today. We will continue to work. Again, if any Senator's staff wants to come and talk to us about amendments or something they would like to see in the managers' package, now is the time to do it because we are about to work very hard to try to get this bill done tomorrow.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ECONOMY

Mr. DODD. Mr. President, I rose to address the Senate less than a week ago about this present economic set of circumstances in the country. Obviously, the foreclosure issue is a major question that is causing serious problems all over the country. In fact, it is now becoming more of a global issue than just a domestic issue. I know there have been serious efforts, and I commend the majority leader and others who have tried to put together—along with those of us on the Banking Committee, the Finance Committee, and the Judiciary Committee—a proposal that would offer some hope and some confidence-building measures to grapple and deal with the foreclosure issue, which is the epicenter, obviously, of this economic crisis we are all seeking answers to.

I thought it might be worthwhile to take a couple of minutes this afternoon to again urge the minority—I have worked closely with Senator SHELBY, and let me just report on a favorable note that I think we are fairly close to having an FHA reform bill that we will be able to adopt very quickly. While that is not going to solve all of the problems, it is yet another piece in this economic puzzle that deserves our attention. I am hopeful and confident we will be able to do that in relatively short order.

I commend the chairman of the Financial Services Committee, Congressman FRANK, BARNEY FRANK of the other body, for his work—the work they put together on a bipartisan basis in the House—and his willingness to compromise on this issue so that we can achieve a proposal that would enjoy broad-based support both here and in the other body.

This issue we are facing today is a very serious one. I hope all of my colleagues appreciate that statement. That is not hyperbole; the realities are there. One cannot pick up a morning newspaper—it is no longer just in the business section; these issues are now front-page stories with fears of growing economic dislocation, a slowdown in our economy that we have not seen in years, with housing values falling nationally at rates that one has to go back literally to the Great Depression to find similar national statistics. We have rising unemployment rates and rising inflation rates. The cost of a barrel of oil once again is exceeding $100 a barrel. Food prices—my colleague from Rhode Island, the Presiding Officer, pointed out the other day, just in terms of bakeries in the country, the rising cost of wheat. The price of wheat has risen dramatically in the country. These are examples of what is occurring that contributes, obviously, to a worsening economic situation in our country.

All we are hoping for here—or I had hoped for before the Easter Passover break—is that we would be able to adopt a series of measures that would attract broad-based support that could offer some relief, some confidence, some optimism to people across the country. I am less optimistic that it is going to happen in a broad sense, but I am still hopeful that FHA reform might be adopted before we leave.

We are facing a very serious situation, and we are doing so in a much weaker position than we were just 7 years ago, the last time that our nation was on the brink of a recession. This is not a partisan or an ideological statement. When the Federal Reserve Chairman, Governor Bernanke, was before the Banking Committee last week, I asked him whether he thought we were in a worse position today to respond to the problems we are facing than we were when we last faced a recession in 2001. The Chairman of the Federal Reserve agreed that we are indeed in a worse position today than we

were 7 years ago. He specifically said that the standard monetary and fiscal policy tools we have to confront economic downturns are far more constrained today than they were 7 years ago. He also said the American consumer is facing the brunt of this economic downturn.

The incoming economic data show how serious the problem is. The Nation's economy has slowed to a near standstill in the fourth quarter, with overall GDP growing by less than 1 percent and private sector GDP growing by only one-tenth of 1 percent.

The country had a net loss of jobs in January. That is the first time we have lost jobs in over 4 years. Incoming data on retail sales has been very weak, and most projections, by the way, by private economists and by the Federal Reserve for economic growth this year have been revised down sharply.

The Vice Chairman of the Federal Reserve, testifying before the Banking Committee yesterday, indicated that the next several quarters do not offer much hope at all that this economy is going to strengthen. Credit card delinquencies are on the rise as consumers find themselves increasingly unable to tap the equity in their homes to help pay down credit card debt and other financial obligations.

Lastly, as I mentioned a minute ago, inflation has increased by 4.1 percent this year. That is the largest increase in 17 years, driven mainly by the rising cost of energy, food, and health care. Oil prices are above $100 a barrel, and the U.S. dollar is at the lowest point in modern history since we began freely floating our currency in 1973.

This economic decline has been reflected in the falling stock prices, the falling currency, and the increased volatility in the securities markets.

Our economy is in trouble, which is to state the obvious, and the data clearly confirms that, but we don't necessarily help the situation by just acknowledging that. What are we doing? What steps are we taking in this body and in the other body? What steps is the administration taking? What steps is the Federal Reserve taking, and others, to reverse these trends and to offer some hope?

I don't want to engage in a self-fulfilling prophecy by reciting the data that is going on here without suggesting that we might not be able to do some things that could help.

As I said previously, the catalyst of the current economic crisis is the housing crisis. Overall, 2007 was the first year since data has been kept that the United States had an annual decline in nationwide housing prices. A recent Moody's report forecasts that home values will drop in 2008 by 10 to 15 percent, and others are predicting a similar decline in 2009. This would be the first time since the Great Depression that national home prices have dropped in consecutive years.

If the catalyst of the current economic crisis is the housing crisis, then the catalyst of the housing crisis clearly is the foreclosure crisis. I have said that over and over again over the last number of weeks.

What steps have we taken?

Last week, it was reported that foreclosures in the month of January were up 57 percent compared to a year ago and continue to hit record levels. When all is said and done, over 2 million Americans will lose their homes, it is predicted. There are already 1.4 million homes in foreclosure nationally, including over 14,000 in my home State of Connecticut, according to RealtyTrac, which publishes these figures, as a result of what Secretary Paulson himself has called ''bad lending practices.'' These are lending practices that no sensible banker, no responsible banker would have engaged in. Yet they did. Reckless and careless, sometimes unscrupulous actors in the mortgage industry allowed loans to be made that they knew many people would not be able to afford, particularly when they reached the fully indexed value and price. They engaged in practices that the Federal Reserve, under its prior leadership, did absolutely nothing, in my view, to effectively stop.

This crisis affects more families who will lose their homes. Property values for each home located within one-eighth of a square mile will drop by $5,000. That is another specific decline. Another statistic which is not often quoted is that when you have neighborhoods that end up with foreclosed properties, the crime rates go up about 2 percent automatically. So you get declining value with increased crime rates, and, of course, declining values and foreclosed properties mean less property taxes coming in to local counties or communities, which, of course, affects services, including fire, police, and emergency services, not to mention social services. So you get a contagion effect.

We now know it has spilled over into student loans. The State of Pennsylvania and the State of Michigan have indicated there may be no student loans available this year. For hard-working, middle-income families who may be current in their mortgage obligations and who are managing their finances well, to find out that their students, their children may not qualify or find student loans available will be yet another added hardship in this country.

So this matter is spilling out of control. I know from time to time people say that is excessive language. It is not excessive at all. What disturbs me deeply is that while I don't claim there is any one silver bullet answer to this, and I would be the last to suggest there was a simple package of four or five items that might help cure all of the housing problems.

I am not saying anything that is not known by others. The troubling data on the housing market and the economic situation is readily available. It is being reported on a daily basis in the national media. The question is, what are we doing, if anything, to try to reverse these serious trends; to offer some optimism and confidence from this body, the Senate, the Congress of the U.S., the administration, and the regulatory bodies? What can we do to act in a responsible and constructive manner to get the country back on the right track?

Yesterday, I chaired a hearing in the Banking Committee with representatives of the Federal bank, thrift, and credit union regulators. The evidence strongly suggests that they were asleep at the switch as this crisis built and when the alarm went off, they merely hit the snooze button. The Federal Reserve, in particular, candidly acknowledged—and I appreciate Don Kohn's testimony—that they failed to properly assess and address excessive risks that were being taken.

The regulators abandoned proven standards of applying good judgment and strong supervisory oversight. Instead, they relied on models and estimates that were being used to justify that there was no housing bubble. These models and estimates were wrong.

What is so troubling is that questions were raised about them some years ago, before the bubble burst, by regulators people such as Ned Gramlich who, when he sat as a Governor of the Federal Reserve, warned that this problem was growing. The staff at these agencies knew this as well. Yet nothing was done. The warning flare shot into the sky by him and others went largely ignored.

Now that this bubble has burst, the regulators are telling us they are ''studying'' what went wrong. While studying the problem has its place, and I appreciate that, I must say that conducting studies of the crisis in the economy and financial markets is, of course, like firefighters responding to a fire by picking up a book and studying how to put out a fire rather than going and doing the job.

I think we all know we need action today, not complacency by the frontline bank regulators. That is why Senator SHELBY and I will continue to press the regulators for the actions they are taking to address the serious problems that our country is facing. I commend Senator SHELBY, who I thought yesterday had good and strong questions for the regulators. The answer we got was that people were too complacent. Many speeches were given and informal conversations took place, but the job of a regulator, the cop on the beat, is not just to give speeches and have informal conversations. If the staff at these agencies knew this bubble could burst, that there were serious problems, that Governors at the Federal Reserve Bank were warning about this problem we are facing, giving speeches and having informal conversations was hardly the kind of action we should have been expecting from very important agencies charged with the

responsibility of seeing to it these kinds of problems would be handled before they became as significant as they are today.

Congress, too, I think should act. Again, I am not suggesting any one specific action, but the idea that we have no role to play while we are watching this wave grow of people who are going to lose their homes—by the way, the estimates are we could be looking at as many as 2 million to 2.5 million families who could lose their homes, and the effect will be as many as 44 million to 50 million homes as a result of the value of homes exceeding, of course, the financial obligations on the residences. If that is the case, and if it goes on too long, and if unemployment rates continue to rise and energy costs continue to rise and student loans become less available, and the cost of education goes up, and health care continues to go up, families who would have been able to manage owning a home under normal circumstances will have serious trouble surviving these economic circumstances. If these problems increase, for families that have a mortgage in excess of the value of the property, and the home value continues to decline, obviously, those families are going to face additional troubles. Therefore, the problem spreads beyond just—not as if it were just 2, but 2.5 million who are losing their homes to a much larger constituency in this country.

So this problem is serious. We are now in another week. I have great respect for what is going on here and dealing with the legislation at hand. But as the majority leader said over and over again, this housing matter is the most serious one in the country. I think the failure to get some agreement and understanding on a package of proposals that we could go forward in a bipartisan fashion is tragic. We will be in here next week on the budget and then we are gone for 2 weeks. While this may seem like academic issues to some people here, if you are that American homeowner out there who lost your job and is watching energy costs go up, with kids you were planning on getting a college education, and student loans may not be available, then this is not an academic issue to you at all.

The question is, Where are the people here doing their job? The majority leader offered and said this is the problem we ought to be addressing. Yet because of whatever reasons, we are unwilling or unable to come together to offer some ideas that could offer relief and optimism. I think it is terribly wrong and I worry about the consequences of inaction.

I know there have been disagreements about what steps to take. That is legitimate. Candidly, this issue ought to be addressed in a far more urgent fashion than is the norm. If there are different ideas on bankruptcy or tax policy or even on the community development block grant idea or the counseling ideas that are all part of a package we had suggested, then let there be a debate about it; let alternatives be offered. But if we cannot spend a few hours or days talking about an economic crisis that has as its center a foreclosure crisis and a housing crisis, then what are we doing here?

This problem is mounting, growing, getting more serious every single day. The failure of this institution to respond in a more responsible way I, again, deeply regret. One point I hope we can all agree on is that doing nothing is not an option. Yet that is what is happening at this very hour.

We need to work out these differences and provide solutions that will work. To that end, I will continue to work with my colleague from the Banking Committee, Senator SHELBY, on several key issues. I thank him again for his willingness to move forward. We are working together with our counterparts in the House on a final version of the FHA legislation that I mentioned. That bill passed 93 to 1 just weeks ago. My hope is that the House and Senate can resolve those differences and present a final product before we leave next week.

Modernizing the Federal Housing Administration is a critical step in responding to the housing crisis. Another important step is comprehensive Government-sponsored enterprise reforms, GSE reforms. I am committed to that issue. We have another hearing I will be holding on that tomorrow, in fact, at the Banking Committee level. So we can hear views from all sides before drafting what I hope will be a bipartisan bill, that we can bring to the Chamber rather quickly for its adoption.

As Chairman Bernanke said several days ago in the Banking Committee, our country is in a worse economic situation today to face a recession than we were 7 years ago. Traditional monetary and fiscal tools might not be adequate to face the unprecedented challenges our economy is facing, with national home prices falling, as I mentioned earlier, for the first time since the Great Depression. We must hear new ideas and proposals to address these problems. The strength of our economy 7 years ago is not there today. We don't have the strength of the dollar, we don't have low inflation, and we don't have low unemployment. Our fiscal situation is a far cry from where it was 7 years ago. So we are in a very different situation to rely on traditional market forces to act as a cushion against a likely recession. We need to think creatively about ways to avoid what is growing and, quite obviously, going to come if additional steps are not taken.

Unfortunately, the administration has so far been reluctant to hear new ideas and take action on proposals to address these problems. At every single turn of this housing crisis, the administration has been one step behind, unfortunately: one step behind the 2.2 million homeowners facing foreclosure last year; one step behind the financial markets which started tightening credit for student loans and other consumer needs last summer; one step behind those of us in Congress who have called for solutions to the foreclosure crisis for more than a year now; one step behind the regulators at the FDIC who have urged broad-based modifications for homeowners since last spring.

Sheila Bair, former legal counsel to Senator Bob Dole, deserves great credit. Almost a year ago, the FDIC, under her leadership, was calling for actions to be taken. Had we acted then, I think the problem would have been a lot less severe than it is today.

Now the administration is again one step behind this time, behind the Federal Reserve who is now calling for more action before the housing crisis gets worse. I commend Chairman Bernanke again for his candor and for the speech he gave yesterday in Florida, calling for more creative action before the problem grows worse, as it does almost hourly.

It took some time for the Federal Reserve to acknowledge the severity of the housing problem, but they have come around. Days after I convened the first hearing of the 110th Congress on foreclosures, Federal Reserve Board Governor Susan Bies said she didn't ''think there will be a large impact on the prime mortgage industry.'' Last March, Treasury Secretary Paulson reinforced that benign and incorrect view, saying that the economic fallout from the housing market would be ''painful to some lenders, but . . . largely contained.''

By the time I held a second hearing on the subprime abuses on March 22 of last year, the Federal Reserve finally acknowledged that the Fed had acted too slowly to address mortgage lending abuses. The Fed pledged then to do more to protect homeowners. Unfortunately, the administration continued to deny the severity of the problem.

Throughout last spring and summer, the Treasury Secretary commented that ''we are at or near the bottom'' of the housing correction and there was no risk to the economy overall. When the Treasury sends such rose-colored messages to the public, it is no surprise that the administration and the industry were slow to assist homeowners with broad-based loan modifications.

I organized the first Homeownership Preservation Summit in April of last year, to bring together the Nation's leading mortgage loan servicing companies, regulators, and community organizations to discuss a timetable and a tangible solution to reduce foreclosures. But the private sector, acting alone, yielded minimal results. Moody's found that just 1 percent of loans had been modified in the spring and summer of last year. Instead of taking action throughout these months to help homeowners, the administration continued its happy talk about the

housing market and the economy. The Treasury stated in July that troubles in the housing market were ''largely'' over and ''contained.'' It wasn't until November, just a few months ago, that the administration convened its own homeownership preservation summit. Unfortunately, during those 7 months that passed, tens of thousands of new homeowners became delinquent on their mortgages.

Instead of working with us in the Congress to develop solutions for homeowners over the summer, the Treasury Secretary said on August 1 that he did not see anything that caused him to reconsider his views, that the economic damage from the housing correction was ''largely contained.'' Echoing Secretary Paulson's benign assessment of the housing market, just days later, President Bush said, ''It looks like we are headed for a soft landing.''

Later that month, in August, I met with Secretary Paulson and Federal Reserve Chairman Bernanke, urging them to use all of the tools at their disposal to address the mortgage market turmoil. I wrote a letter to the Treasury Department and the Department of Housing and Urban Development urging them to move expeditiously to make administrative changes to the Federal Housing Administration single family insurance program to help borrowers escape abusive mortgages by refinancing into more affordable FHA loans.

Throughout the fall, FDIC Chair Sheila Bair and I advocated for systemic loan modifications to help homeowners facing foreclosure. Instead of using his authority and influence to promote such solutions, the Treasury Secretary said, ''The idea of across-the-board modifications is not something that this group [of large subprime servicers] is looking to do . . . and it's not something we in this administration are advocating.'' Weeks later, however, the Treasury Secretary changed his view, saying they saw an ''immediate need to see more loan modifications and refinancing and other flexibility'' and a standardization of loss-mitigation metrics to evaluate servicers' performance goals.

If I have learned one lesson from this housing crisis, a lesson all of us should have learned, it is that delayed action will cost families, neighborhoods, the economy of our Nation, and, of course, the taxpayers more and more money than timely action would have avoided. Instead of turning a tin ear, we must listen to the growing chorus of homeowners, lenders, servicers, housing counselors, economic experts, and regulators who are calling for bold action to prevent this housing crisis from becoming worse than it is today. I believe bold action must include financing options for homeowners through FHA, the GSEs, and a new fund at FHA that I propose to use to preserve home ownership.

We must also do more to slow the tide of foreclosures that are overwhelming many of our communities. And we need to give our local officials the tools and resources to cope with these increases in foreclosed properties. In doing so, we will help break, I believe, the downward cycle that is pushing our economy toward a recession, if we are not already in the middle of one.

By acting, we can bring some certainty where today only uncertainty exists. We can help restore the confidence of consumers and investors that is indispensable to economic progress for our Nation.

There are some steps we have taken in the housing sphere already. Working closely, again, with Senator SHELBY, ranking member of the Banking Committee, we have been able to pass FHA reform legislation. As I mentioned, we have been working with the House to resolve our differences on that legislation.

I am committed to working with my colleague from Alabama and the administration to pass a GSE regulatory reform bill so Fannie Mae, Freddie Mac, and the Federal Home Loan Banks can expand their efforts to help people keep their homes.

The committee also held extensive oversight hearings on the problems that plague the housing market, including a hearing on January 31 to look at the foreclosure issue. We held a hearing on the state of the economy and financial markets with Secretary of the Treasury Paulson, Chairman Bernanke, and SEC Chairman Christopher Cox. We held a hearing with Chairman Bernanke last week to receive the semiannual monetary policy report, and we held a hearing yesterday on the state of the banking industry with all the Federal bank regulators. We are holding a second hearing on GSE reform tomorrow, and there will be more hearings to come.

I also believe that S. 2636 would help address the problems we are facing in the housing and mortgage markets in a number of ways by providing counseling services, dealing with bankruptcy reform, improving disclosures, increasing availability of mortgage revenue bonds, and appropriating emergency funds for local communities struggling with these empty properties. Again, I commend Majority Leader REID for his leadership on this issue. I emphasize those ideas I mentioned are, by and large, noncontroversial, but I know there are those who disagree with them, as one might expect. That is not a reason not to try to move forward and allow a debate to occur, amendments to be offered to modify any of these ideas or additional ones people might bring to the table.

But, doing nothing at all is inexcusable. The fact that days go by, despite the growing alarm bells going off about the seriousness of this problem, as I said a week ago, will be indictable by history if we do not to step up and offer some ideas to get this right.

At the end of the day, this legislation by itself is not going to stop foreclosures or restore our communities to economic health. In my view, we need to do more to bring liquidity to the mortgage markets, to help establish value for the subprime securities that are clogging up the system and a way of clearing them out of the markets so capital can once again flow freely. I continue to work on the details of a home ownership preservation entity that makes use of existing platforms, such as FHA or GSEs, to help achieve this result. There are other ideas that I welcome, maybe not this idea, but something similar to it will work. Whatever it is, we ought to bring our practical talents to bear on all this and do something rather than sitting around doing nothing about this issue.

The home ownership preservation entity will facilitate the refinancing of distressed mortgages. This idea was originally proposed by the American Enterprise Institute and the Center for American Progress, two organizations that do not normally come together on economic ideas, but they did on this one; two organizations that approach economic issues from very different philosophical perspectives but that agree more action is needed to stem the housing crisis.

In its general outline, the home ownership preservation entity would capture the discount for which delinquent and near-delinquent loans are trading in the marketplace through a transparent, market-based process and transfer the discounts to the homeowners so more families can stay in their homes.

I would hope such an entity could purchase and restructure these loans in bulk so we could help as many people as possible, but a case-by-case approach is possible as well. I would not rule that out. It would require lenders and investors to recognize losses so there would be no bailout. In my view, this entity should make use of existing institutions, such as FHA and the GSEs, to expedite the process and maximize the process. Every day that goes by without action means more families are going to lose their homes. Obviously, many details need to be fleshed out, I know that, but I am currently drafting legislation for such an idea and plan to introduce it in the coming weeks. The legislation closely mirrors the approach recommended by Federal Reserve Chairman Ben Bernanke in a speech before community lenders he gave yesterday morning in Florida.

Again, I encourage all my colleagues to work with us. I see the Senator from Iowa on the floor, the former chairman of the Finance Committee, the ranking member today. I commend the Finance Committee. They have offered some very sound ideas out of their committee to deal with revenue mortgage bonds and other ideas. Again, those ideas will not solve everything, but I commend their committee for stepping up and saying: Here are a couple things that may restore confidence, increase

optimism, and may save some families from falling into the worst of all situations.

Remember, only 10 percent of these subprime mortgages went to first-time home buyers. Most of them went to people who are making a second mortgage to take care of financial obligations, people who have been in their homes for years building up that equity to take care of future economic difficulties, student loans, health care problems or retirement, and to watch the wealth that accumulated for years disintegrate before their very eyes. Many end up losing the only wealth creator they have had, the long-term financial security for retirement goes out the window, and we are sitting around doing absolutely nothing about it. It is reprehensible. Again, not everyone is in that category.

The Senator from Iowa, Senator GRASSLEY, to his credit, and Senator BAUCUS and their committee have stepped up, and I commend them for it. We are doing our part. What I regret is we cannot find the time for a couple of days to let some of these ideas at least be raised for debate, discussion, and possibly action before we leave.

As we take off for our 2-week break and enjoy our families, travel, and do whatever else we do, in that time there will be people losing their homes in the country, and maybe, just maybe, if we stepped up to the plate, we might have avoided that from happening.

I think it is sad, indeed, that we cannot find the time to do it, unwilling to sit down and engage in what this body was created for—for healthy, responsible debate about actions we ought to be taking to avoid this problem that grows worse by the hour.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, are we in morning business?

The PRESIDING OFFICER. No, we are still on the underlying bill.

Mr. GRASSLEY. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I will speak for a short period of time if anyone else wants the floor.

STONEWALLING ON OVERSIGHT

Mr. GRASSLEY. Mr. President, throughout my career in the Senate, I have taken very seriously our constitutional responsibility of oversight. So I have actively conducted oversight of the executive branch of Government regardless of who controls Congress or who controls the White House.

These issues that I do oversight on are about basic, good Government and accountability in Government. It does not deal with party politics or with ideology. The resistance from the bureaucracy is often fierce. It does not matter whether we have a Republican President or a Democratic President. There is an institutional bias among bureaucracy not to cooperate with Congress in doing our constitutional job of oversight.

Protecting itself is what the bureaucracy does best, and it works overtime to keep embarrassing facts from congressional and public scrutiny. This has gone on too long. It is time for the stonewalling to stop. We have a duty under the Constitution to act as a check on the executive branch, and I take that duty seriously. I know other Members of the Senate do. But too often, we let issues in oversight slide that somehow we do not let slide in legislation. So I am asking my colleagues to ramp it up a little bit, to be more serious in the pursuit of information, but not just in the pursuit, to make sure that information actually comes to us when we do not get the proper response from the administration.

When the agencies I am reviewing get defensive and refuse to respond to my requests, it makes me wonder what they are trying to hide. They act as if the documents in the Government files belong to them. These unelected officials seem to think they alone have the right to decide who gets access to information—information, which, by the way, was probably collected at taxpayers' expense.

I have news for them. I am asking my colleagues to have news for them. Documents in Government files belong to the people, and the elected representatives of the people in our constitutional role of oversight of the executive branch have a right to see them. That right is essential to carry out our oversight function.

Let me summarize a few examples of the kind of stonewalling I face. But before I do that, I would like my colleagues to know this is the first of several trips to the floor that I intend to make about the executive branch and its stonewalling. I am tired of it, and I am going to talk about it until we in the Senate and this Senator gets what we are entitled to under the Constitution. All the kids in America study the checks and balances that are a part of our system of Government, and this is part of the congressional check under the Constitution on the executive branch of Government.

So let me start this evening with what is outstanding and is being held up at the FBI on the one hand, the State Department on the other, and the Department of Homeland Security in another case. Let's look at the use of the jet aircraft that is available for the FBI.

The Government Accountability Office is beginning an audit that I requested on the use of luxury executive jets by the FBI. I asked for the audit after a Washington Post article detailed evidence that the jets were being used for travel by senior FBI officials rather than for the counterterrorism purpose as Congress intended when the jets were provided. However, the FBI Director has refused to commit to providing the flight logs to the Government Accountability Office investigators who are working on this project.

What is wrong with a little bit of public scrutiny about the flight logs on a corporate jet, which the taxpayers have paid for, for the use of Government bureaucracy and Government officials?

Let's go to the Michael German case. For nearly 2 years, despite requests from two Judiciary Committee chairmen, the FBI refused to provide documents in the case of FBI whistleblower Michael German. It took more than a year for the FBI to respond to questions for the record following last year's FBI oversight hearing by the Judiciary Committee. Even when the responses finally came in, most of them ducked and evaded the questions rather than answering them very directly.

The FBI misled the public about the facts in the German case. Even faced with the evidence, the FBI still will not admit that German was right about domestic and international terrorist groups meeting to discuss forming operational ties. Now they are trying to hide that evidence from the public. Don't you think the public ought to know everything there is to know about people who are planning terrorist activities against Americans?

I would like to bring up next exigent letters. The FBI continues to stonewall this committee on requests for documents. For example, last March, we requested internal FBI e-mails on their issuance of exigent letters. These letters were criticized by the Justice Department inspector general as inappropriate ways to obtain phone records without any legal process and said the letters contained false statements, promising that a subpoena would be on the way even when there was no intent to issue such a subpoena. Here we are, then, a whole year later, and the FBI has provided only 15 pages. We know they have been sitting on even more e-mails that should shed light on this controversy. It is enough to make you wonder what they might be trying to hide.

Let us go back to something now 5 years old—the anthrax case. Not 5 years I have been working on it, but it hasn't been too far short of 5 years. There is still no public indication of progress in the investigation of the anthrax attacks. Well, this involved attacks on individual Senators. A former journalist is being fined for failure to disclose her sources, despite press accounts stating the sources were unnamed FBI officials. Whether anyone in the Justice Department has taken any serious steps to find out who in the bureau was leaking case information about Stephen Hatfill to the press is still a mystery. And why should it be? It shouldn't be a mystery. Have they obtained and searched the phone records of their own senior officials to see who was calling the reporters in question? You know, it is mysterious, but the FBI won't say.

Let us go to the Cecilia Woods matter. We have been waiting 2 years for documents in the case of a whistleblower named Cecilia Woods. Woods came to my office to report that she was retaliated against for reporting that her supervisor had an inappropriate intimate relationship with a paid informant and that her supervisor was inexplicably not fired, despite overwhelming evidence of this misconduct. I asked to see the FBI internal investigation to find out why. I still have not received adequate replies.

Let us look at the Goose Creek defendants. It is not only the FBI we have problems with. The Homeland Security and State Departments are stonewalling Congress as well. Last year, I wrote to Secretary Rice—she is an honorable person, Secretary of State, doing well—and we wrote to Secretary Chertoff—he is an honorable person. We wrote about the case of two Florida State University students arrested near Goose Creek, SC, with explosives in their trunk. They are both Egyptian nationals. One of them, Ahmed Mohammed, entered the United States on a student visa. However, I learned he had previously been arrested in Egypt and that he even declared his arrest on his visa form. I wanted a copy of his visa application and other documents to investigate how our screening system for visa applicants could still be so broken 7 years after 9/11. Both the Department of Homeland Security and the State Department have thus far refused to comply. Why would they want to keep information such as this from a Member of the Senate, who has responsibility for appropriating enough money to make sure we can keep terrorists from doing another attack against American citizens?

For today, I have given only a few examples. I am going to come to the floor again to outline more examples where these agencies and other agencies have delayed and delayed and delayed. Months turn into years, and we don't get the information we need. It is time for excuses to stop so Congress can perform its constitutional job of check and balance—in this case check the executive branch of Government—and our constitutional responsibility of oversight of that branch of Government, the executive branch.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. VOINOVICH. Madam President, as we prepare to consider the budget resolution next week, I rise today to comment on the need for fiscal responsibility and reform of the very financial pillars that support our Government's foundation. Building on a speech I gave last October, and in the tradition of another Member of this body, Senator Fritz Hollings, I hope to regularly provide my colleagues and the American people with updates on our growing national debt. We need to be reminded of the fiscal reality which we find ourselves in. We cannot continue to live in a state of denial.

The Congressional Budget Office projects a $219 billion budget deficit for 2008—that is the fiscal year we are in right now—which does not include the $152 billion economic stimulus package President Bush recently signed into law. With the addition of the economic stimulus bill, the 2008 projected deficit can be assumed to be $371 billion in 2008.

But even that figure hides the true degree to which our official situation has deteriorated, mainly because it uses every dime of the Social Security surplus. I think it is important for our colleagues to understand we are using every dime of the Social Security surplus, as well as surpluses in other trust funds, to hide the true size of the Government's operating deficit.

If you wall off the Social Security surplus so that Congress can't spend it on other programs, as I believe we should, then the Government's operating deficit amounts to $566 billion, over 50 percent more than the reported deficit of $371 billion. In other words, what we do is we hide from the American people the fact that we are borrowing money from ourselves to run our Government, and the only thing we report to them is the public debt, but we don't report to them the Government debt. So when we make these figures available, we will say, oh, the deficit is $371 billion, but the truth of the matter is, when you add in the Social Security surplus, it is $566 billion.

But the annual difference between revenues and outlays is not what is truly threatening our future. It is the cumulative ongoing increase in our national debt that matters. Unfortunately, many in Washington pretend that the debt doesn't even exist. How often do you hear anybody talk about the national debt? They don't.

I think we all remember that in 1992 Ross Perot was out running around America talking about our fiscal irresponsibility and the national debt. At that time, Ross Perot—and this is 1992—predicted that by 2007, the national debt would be $8 trillion. Well, the fact is, he was wrong. It is $1 trillion more. It is $9 trillion.

Now, the interesting thing is that from the beginning of our country to 1992, it is something like 200 years. We have since 1992 increased the debt—doubled it—from what it was. In other words, in the last 15 years, we have increased the debt more than what it was for the first 200 years. Think about that—200 years. And the tragedy of it is that each and every American—man, woman, and child—owes $30,000. That is what we all owe today.

Here are some additional facts: 47½ percent of that privately owned national debt is held by foreign creditors, mostly foreign central banks. That is up from 13.3 percent only 5 years ago. And who are the foreign creditors? The three largest creditors are Japan, China, and the oil exporting countries, or the OPEC nations. Can you imagine how high our interest rates would soar if these countries moved out their investment to somewhere else? In other words, if they would get shaky about where we are in terms of our U.S. economy.

According to the S&P and Moody's, U.S. treasuries will lose their triple-A credit in 2012. In other words, by 2012, our treasuries are going to lose their triple-A rating. That is the best rating you can get. In dollar purchases, I think most of us remember when we could take the American dollar and buy more Canadian dollars. Today, a dollar buys 98 cents of a Canadian dollar. In Europe, it takes $1.52 to buy one Euro.

I have traveled overseas in the last several years, and at one time everybody wanted the American dollar. They called them Reagans. I want a Reagan.

Well, the fact is, today they do not want Reagans, they wanted Euros. Our long-term fiscal situation makes short-term responsible budgeting today even more important. The adoption of a biennial budget for the Federal Government, as I had as Governor of Ohio, would ensure Congress can get its work done on time while also conducting the oversight necessary to ensure that programs and agencies are functioning effectively.

I am hoping we can convince the chairman of the House Budget Committee that this is something that would be great for this country because it is a systemic change that would make a real difference.

I have long championed this issue. I have been a cosponsor of Senator DOMENICI's Biennial Budgeting Act since I came to the Senate in 1999. I have been advocating for its passage nearly 10 years.

In 25 of the last 30 years, Congress has failed to enact all of the appropriations bills by the start of the fiscal year, instead passing omnibus bills and continuing resolutions. Government-by-CR has consequences: Agencies cannot plan for the future, they cannot make hiring decisions, and they cannot sign contracts.

In the next several weeks, I am going to give another speech on the floor of the Senate to remind people about the disruption our not being able to pass budgets on time and the effect continuing resolutions have on inefficient Government and our inability to do the

job the taxpayers want us to do. As I said, we get more waste and inefficiency from the Government by what we are doing. We get lower quality services provided to the people. At the end of the day, we get higher spending and less accountability and oversight of the taxpayers' money. This is irresponsible management, and it has to stop.

Biennial budgeting will ensure Congress does its job and actually looks back to see if the money we have spent is doing what it is supposed to do.

While biennial budgeting can restore order to the appropriations process, it will not solve our long-term entitlement problems or reform our Tax Code. We must enact fundamental tax reform to help make the Tax Code simple, fair, transparent, and economically efficient.

Tax reform is not just a matter of saving taxpayers time and effort; this is about saving taxpayers real money. The Tax Foundation estimates that comprehensive tax reform could save us much as $265 billion in compliance costs associated with preparing our returns.

People come to my office every day, and I ask them: How many of you do your own tax returns? And the answer is most of them—the hands go up. I am an attorney. I used to make out my own return. I used to do them for my clients. I would not touch my tax return today with a 10-foot pole.

Now, if we can straighten this out through good tax reform, fair, easy to understand, even if we did it halfway, it would save almost $160 billion for all of the taxpayers of this country. That is a real tax reduction, and it is something that would not cost the Treasury one dime.

In January 2005, President Bush announced the creation of an all-star panel led by former Senators Mack and Breaux, and that panel spent most of the year engaging the American public to develop proposals to make our Tax Code simpler, more fair, and more conducive to economic growth.

In November 2005, the panel issued its final report. While not perfect in everyone's mind, the panel's two plans provided a starting point for developing tax reform legislation that will represent a huge improvement over the current system. The panel's proposals belong as a key part of the national discussion on fundamental tax reform.

Last January, I introduced the Securing America's Future Economy—or SAFE—Commission Act, legislation that would create a bipartisan commission to look at our Nation's tax and entitlement systems and recommend reforms to put us back on a fiscally sustainable course and ensure the solvency of entitlement programs for future generations. My colleague, Senator ISAKSON, has joined me as a cosponsor.

Democratic Congressman JIM COOPER of Tennessee and Republican FRANK WOLF of Virginia introduced a bipartisan version of the SAFE Commission in the House, where they have 73 cosponsors from both parties. This bipartisan, bicameral group has support from corporate executives, religious leaders, think tanks across the political spectrum, from the Heritage Foundation to the Brookings Institution, and former members from both parties.

On the heels of this, two of my colleagues, the Budget Committee chairman from North Dakota and the ranking member from New Hampshire, recently introduced a bipartisan bill that would create a tax and entitlement reform commission entitled the ''Bipartisan Task Force for Responsible Fiscal Action.'' I signed on as a cosponsor of the Conrad-Gregg proposal. I look forward to working with them to restore fiscal sanity to the U.S. Government.

I would like to comment on the efforts of Divided We Fail, a coalition comprised of the AARP, Business Roundtable, Service Employees Union, and the National Federation of Independent Businesses, for encouraging bipartisan congressional action on this legislation. I want to repeat that. Here is a group. They call themselves Divided We Fail. It is made up of the AARP, the Business Roundtable, and the National Federation of Independent Businesses, which are supporting this. What an interesting array of individuals who think it is time for us to do entitlement and tax reform.

I am encouraged that the Senate Budget Committee is planning to mark up the Bipartisan Task Force for Responsible Fiscal Action, and I urge my colleagues to pass this critical legislation before the close of 2008.

The next President, whoever that may be, should be ready in January 2009 to work with the task force in addressing these critical reform issues. What we are doing now is not working for us. We know that oversight is an important part of our job. But oversight takes time. We must identify programs that are mired in waste, fraud, and abuse.

Another piece of legislation I have introduced, along with Senator CORNYN, is the United States Authorization and Sunset Commission Act. This legislation would create a bipartisan commission to make recommendations to Congress on whether to reauthorize, reorganize, or terminate Federal programs. It would establish a systemic process to review unauthorized programs and agencies and, if applicable, programs that are rated as ''ineffective'' or ''results not demonstrated'' under the program assessment rating tool, which is called PART. Hopefully, the next administration will adopt the criteria the Bush administration has set for PART.

Now, this legislation does not take away from our obligations to make difficult decisions about which programs to continue and those that we can no longer afford to support. What it does is provide an opportunity to work harder and smarter and do more with less.

I believe by establishing this commission to do a thorough examination of programs and agencies using the established criteria, and a transparent reporting process, we can carry out our oversight responsibility more efficiently and effectively.

The legislation will help us distinguish between worthwhile programs and those that have outlived their purpose, are poorly targeted, operate inefficiently, or simply are not producing results taxpayers expect. I used such a commission as Governor of Ohio, and it has helped us work harder and smarter and do more with less.

As we near the end of the Presidential primary season and move into the nominating conventions, the Presidential candidates of both parties should address the critical issue of tax reform, entitlement spending, and budget process reform.

All of the leading Presidential candidates are Members of the Senate. The American electorate should demand that they take a stand on the SAFE Commission and on the Bipartisan Task Force for Responsible Fiscal Action. Voters should demand that Congress pass this bill this year and insist Presidential candidates pledge that upon being elected, they will guarantee that one of their first actions they take as President is to make their appointments to this task force. The Presidential candidates should have recommendations on tax reform, entitlement reform, and biennial budgeting.

But I am afraid that the candidates, whether Democratic or Republican, will avoid these topics, because these challenges require tough choices. Where is Ross Perot? Where is Ross Perot? Voters must ask candidates if they are willing to discuss our country's financial future. If a candidate avoids this topic of responsibility in the campaign, how can voters trust them to be forthright after they are elected?

The former Comptroller General, David Walker, has said:

> The greatest threat to our future is our fiscal irresponsibility.

He added:

> America suffers from a serious case of myopia, or nearsightedness, both in the public sector and in the private sector. We need to start focusing more on the future. We need to start recognizing the realities that we are on an imprudent and unsustainable fiscal path and we need to get started now.

I have three children and seven grandchildren. My wife Janet and I are wondering whether they are going to have the same opportunities we have had, as well as the same standard of living or our quality of life. I question what kind of legacy we are going to leave them as a nation.

The time to act is now. When you look at the numbers, it is self-evident that we must confront our swelling national debt, and we must make a considered bipartisan effort to reform our tax system, slow the growth of entitlement spending, and halt this freight

train that is threatening to crush our kids' and grandkids' future. We owe it to our children and grandchildren to take care of it now. All of us—all of us—should think about them. We have a moral responsibility to the future of this country, our children and our grandchildren, to make sure our legacy is one that we can be proud of, that they will have the same opportunities we had during our lifetime.

Mr. LEAHY. Madam President, I support Senator KOHL's amendment to the Consumer Product Safety Commission, CPSC, Reform Act. This legislation would make it more difficult to prevent public disclosure of information in lawsuits involving a product that poses a serious public heath or safety risk.

Senator KOHL's amendment would promote transparency in court proceedings by prohibiting courts from restricting access to information in civil cases that could affect public health or safety. The amendment would prohibit judges from sealing court records, information obtained through discovery, and certain details of a settlement unless the public health or safety interest is outweighed by a specific and substantial interest in maintaining confidentiality. When issued, protective orders could be no broader than necessary to protect the privacy interest asserted.

The Judiciary Committee heard compelling testimony in a recent hearing about the tragic consequences of court secrecy in cases concerning defective products. We heard from Johnny Bradley, a Navy recruiter who tragically lost his wife in a car wreck that resulted from tread separation on a Cooper tire on his Ford Explorer. Mr. Bradley chose to buy Cooper tires in the wake of the Bridgestone/Firestone recall, believing that they would be safer. It was not until after the tragic death of his wife that he found out during litigation that Cooper had faced numerous similar incidents and had thousands of documents detailing design flaws and defects in the company's tires. The details from as many as 200 lawsuits against Cooper remained covered up through various protective orders, demanded by the tire company. As a result, vital information that could have saved Mr. Bradley's wife was not disclosed to the public. Mr. Bradley's story is just one example of the terrible consequences of court secrecy in cases involving products that pose health and safety risks.

Last December, Senator KOHL introduced the language contained in this amendment as the Sunshine in Litigation Act. I am a cosponsor of Senator KOHL's bill, and I support this amendment. In an environment where the administration is clearly not enforcing product safety regulations, we need to make sure that consumers have better access to information that affects their health and safety.

CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2663, a bill to reform the Consumer Product Safety Commission.

Harry Reid, Charles E. Schumer, Russell D. Feingold, Bernard Sanders, Debbie Stabenow, Patrick J. Leahy, Jon Tester, Christopher J. Dodd, Edward M. Kennedy, Blanche L. Lincoln, Byron L. Dorgan, Richard Durbin, Mark L. Pryor, Jeff Bingaman, Amy Klobuchar, Kent Conrad.

Mr. PRYOR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. PRYOR. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING REPRESENTATIVE ALDO VAGNOZZI

Mr. LEVIN. Madam President, Representative Aldo Vagnozzi is a beloved figure in Michigan. He is one of those people who talks the talk, walks the walk, and does both to the great benefit of all of those who are fortunate enough to cross his path.

Aldo served in the U.S. Army during World War II as an interpreter in Italy, talking in English and Italian and rising to the rank of sergeant. He took advantage of the GI bill to finish his education at Wayne State University, graduating with a degree in journalism in 1948.

That same year, he married Lois Carl, beginning a 50-year marriage. They would raise two daughters and two sons, seven grandchildren, and two great-grandchildren.

As editor of several publications, including numerous labor newspapers, Aldo reported on and learned about Michigan's social and political environment and the workings of government. This understanding, along with his knack for making friends, would serve him and the State of Michigan well.

Aldo would later serve on the Farmington Hills City Council, the Farmington District School Board, the Farmington Area Parent-Teacher Association, and as the mayor of Farmington Hills. He has been actively involved in numerous community organizations.

In 2002, Aldo ran for election to the Michigan House of Representatives. He personally went door-to-door to 15,000 houses, walking over 900 miles including a 5-day, 70-mile walk from Farmington Hills to Lansing.

Term limits will keep Aldo from continuing his service in the House of Representatives after his current term ends this year, and he will be deeply missed by his colleagues and his constituents.

I salute my friend Aldo Vagnozzi for his years and years of service to Michigan, his indomitable spirit, and his remarkable ability to walk, talk, and sometimes do both while working for the people of Michigan.

I have lost track of the retirement parties I have been to for Aldo Vagnozzi. I am confident his next one won't be his last as he moves on to other endeavors.

NATIONAL PEACE CORPS WEEK

Mr. KYL. Madam President, last week marked the 47th anniversary of the founding of the U.S. Peace Corps. Since its inception in 1961, 190,000 Americans have served in 139 countries around the globe. Currently, 126 Arizonans are Peace Corps volunteers, dedicating their time and hard work to projects in 51 countries.

The Peace Corps is an organization through which many Americans have made meaningful service and have contributed to the well-being of peoples in other lands. A spirit of generosity and volunteerism helped build our Nation; in that same spirit, these Peace Corps volunteers are helping others to build theirs.

Peace Corps volunteers are also ambassadors of American culture—exchanging ideas and bridging cultural divides are critical to helping people understand America's values and message of freedom.

I would like to pass on my thanks and congratulations to those who have served in the Peace Corps, and I applaud their contributions to our Nation and nations abroad.

TRIBUTE TO CHRISTOPHER K. BRADISH

Mr. SPECTER. Madam President, I pay tribute to a very distinguished staffer in my office, Christopher K. Bradish, who serves as my legislative assistant for defense and foreign affairs issues.

Recently, the National Guard Association of the United States recognized Christopher's extraordinary work by presenting him with the Patrick Henry Award—the civilian counterpart to the National Guard Association of the United States Distinguished Service Medal. Created in 1989, the Patrick Henry Award provides recognition to local officials and civic leaders, who in

a position of great responsibility distinguished themselves with outstanding and exceptional service to the Armed Forces of the United States, the National Guard, or the National Guard Association of the United States.

To fully comprehend the magnitude of this honor, it is important to note the criteria for the selection of the Patrick Henry Award. Superior performance of normal duty alone does not justify award of this honor. An individual must have provided exceptionally strong support for the National Guard such that the readiness and the future of the National Guard must have been positively impacted.

Christopher has provided a tremendous service to our Nation's military, as the United States continues to wage a war on terrorism in this post-9/11 era. Additionally, he has demonstrated a remarkable amount of enthusiasm for ensuring that the Armed Forces and National Guard have the readiness capabilities to defend our country. The assistance he has provided the National Guard will not be easily matched; however, for Christopher this level of dedication is par for the course.

I applaud the National Guard Association of the United States for recognizing Christopher's behind-the-scenes work to increase National Guard funding and champion projects of special interest to the Guard. Christopher also strives to provide the legislative tools necessary to give soldiers and airmen the best support available. He has worked hard on these issues—each time jumping in feet first, soaking up knowledge, and moving legislation forward in this often complicated process.

I urge my colleagues to join me today in commending Christopher K. Bradish for his receipt of the Patrick Henry Award and his leadership on behalf of the Armed Forces of the United States, the National Guard, and the National Guard Association of the United States.

UNITED NATIONS SECURITY COUNCIL SANCTIONS ON IRAN

Mr. SMITH. Madam President, I wish to speak on the latest round of United Nations Security Council sanctions on Iran.

This past Monday, the Security Council voted 14 to 0 to increase sanctions on Iran in response to its continued enrichment of uranium. I applaud the United Nations for pursuing the diplomacy necessary to avoid hostilities. The vote was another step on the long diplomatic path toward increasing stability in the Middle East, but more remains to be done. Among other measures, these sanctions are important in restricting the travel and freezing the assets of certain Iranian officials and banks. The U.N. is now following the American lead in taking action against banks like Bank Melli which are deeply involved financially with the Iranian Government and its nuclear program.

The near unanimity shown by members of the Security Council, including the five veto-holding countries, was a strong and unmistakable signal of the international community's condemnation of Iranian policies. That signal would be even stronger if the Security Council members—and Russia and China in particular—would take further economic measures, including against Iran's energy sector. These countries need to realize that a nuclear-armed Iran does not just threaten the United States or the West but indeed the entire Middle East, the nuclear nonproliferation regime, and potentially the world. The very idea of a nuclear Iran is chilling.

In March of last year, Senator DURBIN and I introduced the Iran Counter-Proliferation Act, a bill outlining steps the United States and its allies should take to prevent Iran from continuing its nuclear program. I am pleased that this legislation currently has 69 cosponsors, and the Bush administration has taken many of the measures I suggested. Other nations, particularly our European allies, should follow the United States in using additional sanctions to supplement the actions of the Security Council. The international community particularly needs the cooperation of states which actively do business with Iran to draw down that business, in addition to holding key Iranian leaders personally responsible.

Some of the foreign countries which engage Iran economically have been cooperative in reducing the extent of that cooperation, like Germany, which is steadily decreasing the export credits granted to investments in Iran. Others have been far more recalcitrant, especially Russia, which continues to provide nuclear and military assistance to Tehran. This cooperation, under the circumstances, is unacceptable.

The diplomacy of the United States and the United Nations must continue to intensify until Iran verifiably agrees to forego its nuclear ambitions. Until that day, and until Iran's political leaders decide they have more to gain from cooperation than from conflict, the sanctions enacted today and others like them will continue.

EQUAL CARE FOR ARMED FORCES

Mr. SMITH. Mr. President, I rise today to speak to an important piece of legislation to secure equal care for members of the armed services who suffer from a mental illness. I am pleased to have my colleagues Senators EVAN BAYH and BILL NELSON joining me in this cause by serving as original cosponsors of this bill, the Travel Assistance for Family Members of our Troops Act of 2008.

There is no greater obligation than caring for those who have served this country through their military service. We would be remiss if we did not ensure that the health care of our heroes in arms is the finest medicine has to offer.

What we now refer to as post-traumatic stress disorder, PTSD, was once described as ''soldier's heart'' in the Civil War, ''shell shock'' in World War I, and ''combat fatigue'' in World War II. Whatever the name, they are serious mental illnesses and deserve equal attention and care as a physical wound.

In recent reports, we have heard that 20 to 40 service men and women are evacuated each month from Iraq due to mental health problems. In addition to those who are identified, there are many more who will return home after their service to face readjustment challenges. Some will need appropriate mental heath care to help them adjust back to ''normal'' life, while others will need medical assistance to heal more serious PTSD issues. Yet others will need help to mentally cope with their physical wounds.

So many of our veterans from previous conflicts, such as World War II and the Korean and Vietnam wars, needed similar programs once they returned home. Yet I fear that we didn't do enough to help them. With proper and early support systems in place, including support of their families, we can work to prevent the more serious and chronic mental health issues that come from a lack of intervention.

The legislation I am introducing today will provide support for family members of our uniformed service men and women receiving inpatient treatment for serious psychiatric conditions. Right now, the Department of Defense does not classify Active-Duty servicemembers receiving treatment for mental illnesses as ''Very Seriously Ill'' or ''Seriously Ill.''

Therefore, under current policy, family members are not eligible to receive the same travel allowances as patients being treated for physical injuries.

This bill will eliminate the current disparity in treatment against our country's men and woman who are bravely serving in the armed services. We have already taken legislative steps through the Defense reauthorization bill to begin to address needed improvements in the quality of health care, both from mental and physical injuries. This bill is another important piece in that process.

Travel Assistance for Family Members of our Troops Act of 2008 ensures that patients with serious mental impairments can spend time with their family—the same treatment we currently are providing to patients with physical injuries requiring inpatient care.

We urge our colleagues to support this important piece of legislation.

ADDITIONAL STATEMENTS

RECOGNIZING THE MINNEAPOLIS EMERGENCY COMMUNICATIONS CENTER

• Ms. KLOBUCHAR. Madam President, I wish to recognize the Minneapolis Emergency Communications Center, which is being honored today as the Nation's Outstanding Call Center.

Too often, the exceptional work and service that 9–1–1 call centers and workers perform every day across America goes unrecognized.

Before I came to Washington, I served as the chief prosecutor for Hennepin County, Minnesota's largest county, for 8 years. During that time, I saw firsthand the critical contributions 9–1–1 call centers make to public safety on a daily basis—helping to save lives and bring criminals to justice—and gained an unending appreciation for their work.

Today, I wish to thank all 9–1–1 operators for all they do to keep our communities safe—for coordinating the response to each and every emergency, and for doing it all with composure and compassion, and never with complaint.

But today is a special honor for the Minneapolis Emergency Communications Center, now recognized as the Outstanding Call Center of 2007 for its response to the tragic I–35W bridge collapse in August of 2007.

I would like to congratulate and thank director John Dejung, deputy director Heather Hunt, and each of the 77 call center agents involved in the response.

In the minutes and hours following the bridge collapse, the response of Minnesota's fire fighters, police, and other emergency personnel was extraordinary. One of the most enduring images of the response is that of brave young firefighter Shanna Hansen who, with a rope tied around her waist, kept diving down into the depths of the Mississippi to search for any survivors.

What wasn't seen was how the Minneapolis Emergency Communications Center directed the response. Under the most difficult of circumstance, center personnel produced the very best of results and no doubt saved lives. The entire Nation saw Minnesota's finest on display in those first few hours after the collapse, and it was made possible by the 9–1–1 responders we are honoring today and their colleagues in Minneapolis.

So it is with great pride that I congratulate the Minneapolis Emergency Communications Center for this well-deserved award of Outstanding Call Center of 2007.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:21 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 816. An act to provide for the release of certain land from the Sunrise Mountain Instant Study Area in the State of Nevada and to grant a right-of-way across the released land for the construction and maintenance of a flood control project.

H.R. 1143. An act to authorize the Secretary of the interior to lease certain lands in Virgin Islands National Park, and for other purposes.

H.R. 1311. An act to provide for the conveyance of the Alta-Hualapai Site to the Nevada Cancer Institute, and for other purposes.

H.R. 1922. An act to designate the Jupiter Inlet Lighthouse and the surrounding Federal land in the State of Florida as an Outstanding Natural Area and as a unit of the National Landscape Conservation System, and for other purposes.

H.R. 3111. An act to provide for the administration of Port Chicago Naval Magazine National Memorial as a unit of the National Park System, and for other purposes.

H.R. 3473. An act to provide for a land exchange with the City of Bountiful, Utah, involving National Forest System land in the Wasatch-Cache National Forest and to further land ownership consolidation in that national forest, and for other purposes.

H.R. 5137. An act to ensure that hunting remains a purpose of the New River Gorge National River.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 816. An act to provide for the release of certain land from the Sunrise Mountain Instant Study Area in the State of Nevada and to grant a right-of-way across the released land for the construction and maintenance of a flood control project; to the Committee on Energy and Natural Resources.

H.R. 1143. An act to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1311. An act to provide for the conveyance of the Alta-Hualapai Site to the Nevada Cancer Institute, and for other purposes, to the Committee on Energy and Natural Resources.

H.R. 3111. An act to provide for the administration of Port Chicago Naval Magazine National Memorial as a unit of the National Park System, and for other purposes; to the Committee on Armed Services.

H. R. 3473. An act to provide for a land exchange with the City of Bountiful, Utah, involving National Forest System land in the Wasatch-Cache National Forest and to further land ownership consolidation in that national forest, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5137. An act to ensure that hunting remains a purpose of the New River Gorge National River; to the Committee on Energy and Natural Resources.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 2712. A bill to require the Secretary of Homeland Security to complete at least 700 miles of reinforced fencing along the Southwest border by December 31, 2010, and for other purposes.

S. 2713. A bill to prohibit appropriated funds from being used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

S. 2716. A bill to authorize the National Guard to provide support for the border control activities of the United States Customs and Border Protection of the Departments of Homeland Security, and for other purposes.

S. 2718. A bill to withhold 10 percent of the Federal funding apportioned for highway construction and maintenance from States that issue driver's licenses to individuals without verifying the legal status of such individuals.

S. 2711. A bill to improve the enforcement of laws prohibiting the employment of unauthorized aliens and for other purposes.

S. 2710. A bill to authorize the Department of Homeland Security to use an employer's failure to timely resolve discrepancies with the Social Security Administration after receiving a ''no match'' notice as evidence that the employer violated section 274A of the Immigration and Nationality Act.

S. 2715. A bill to amend title 4, United States Code, to declare English as the national language of the Government of the United States, and for other purposes.

S. 2709. A bill to increase the criminal penalties for illegally reentering the United States and for other purposes.

S. 2714. A bill to close the loophole that allowed the 9/11 hijackers to obtain credit cards from United States banks that financed their terrorists activities, to ensure that illegal immigrants cannot obtain credit cards to evade United States immigration laws, and for other purposes.

S. 2719. A bill to provide that Executive Order 13166 shall have no force or effect, and to prohibit the use of funds for certain purposes.

S. 2722. A bill to prohibit aliens who are repeat drunk drivers from obtaining legal status or immigration benefits.

S. 2720. A bill to withhold Federal financial assistance from each country that denies or unreasonably delays the acceptance of nationals of such country who have been ordered removed from the United States and to prohibit the issuance of visas to nationals of such country.

S. 2717. A bill to provide for enhanced Federal enforcement of, and State and local assistance in the enforcement of, the immigration laws of the United States, and for other purposes.

S. 2721. A bill to amend the Immigration and Nationality Act to prescribe the binding oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States, to encourage and support the efforts of prospective citizens of the United States to become citizens, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5299. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Methoxyfenozide; Pesticide Tolerances and Time-Limited Pesticide Tolerances'' (FRL

No. 8352–2) received on February 28, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5300. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Acetic Acid; Pesticide Tolerance'' (FRL No. 8350–8) received on February 28, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5301. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, its semiannual report relative to monetary policy; to the Committee on Banking, Housing, and Urban Affairs.

EC–5302. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to funds provided for Federal-aid highway and safety construction programs; to the Committee on Commerce, Science, and Transportation.

EC–5303. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of Homeland Security, transmitting, pursuant to law, a report relative to the Critical Skills Retention Bonus program for military personnel; to the Committee on Commerce, Science, and Transportation.

EC–5304. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL No. 8530–7) received on February 28, 2008; to the Committee on Environment and Public Works.

EC–5305. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio'' (FRL No. 8533–8) received on February 28, 2008; to the Committee on Environment and Public Works.

EC–5306. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Iowa'' (FRL No. 8535–9) received on February 28, 2008; to the Committee on Environment and Public Works.

EC–5307. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of 8-Hour Ozone Nonattainment Areas to Attainment and Approval of the Areas' Maintenance Plans and 2002 Base-Year Inventories; Correction'' (FRL No. 8536–6) received on February 28, 2008; to the Committee on Environment and Public Works.

EC–5308. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Allentown-Bethlehem-Easton 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base Year Inventory'' (FRL No. 8536–5) received on February 28, 2008; to the Committee on Environment and Public Works.

EC–5309. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NOx RACT Determinations for Merck and Co., Inc.'' (FRL No. 8536–4) received on February 28, 2008; to the Committee on Environment and Public Works.

EC–5310. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Delegated Authority to Order Use of Procedures for Access to Certain Sensitive Unclassified Information'' (RIN3150–AI32) received on February 28, 2008; to the Committee on Environment and Public Works.

EC–5311. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Fuel Cell Motor Vehicle Credit'' (Notice 2008–33) received on February 28, 2008; to the Committee on Finance.

EC–5312. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Voluntary Closing Agreement Program for Issuers of Tax-Exempt Bonds and Tax Credit Bonds'' (Notice 2008–31) received on February 27, 2008; to the Committee on Finance.

EC–5313. A communication from the Assistant Secretary for Import Administration, Foreign-Trade Zones Board, Department of Commerce, transmitting, pursuant to law, an annual report relative to the Board's activities for fiscal year 2006; to the Committee on Finance.

EC–5314. A communication from the Director, Office of Standards, Regulations, and Variances, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Mine Rescue Teams'' (RIN1219–AB53) received on February 28, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–5315. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Community Services Block Grant Act Discretionary Activities; to the Committee on Health, Education, Labor, and Pensions.

EC–5316. A communication from the White House Liaison, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of Assistant Attorney General, received on February 27, 2008; to the Committee on the Judiciary.

EC–5317. A communication from the Director, Department of Homeland Security, transmitting, pursuant to law, the Annual Report of Citizenship and Immigration Services for fiscal year 2007; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON MARCH 4, 2008

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1675. A bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service (Rept. No. 110–271).

By Mr. BIDEN, from the Committee on Foreign Relations, with amendments and an amendment to the title:

H.R. 1469. A bill to establish the Senator Paul Simon Study Abroad Foundation under the authorities of the Mutual Educational and Cultural Exchange Act of 1961 (Rept. No. 110–272).

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

H.R. 2798. A bill to reauthorize the programs of the Overseas Private Investment Corporation, and for other purposes (Rept. No. 110–273).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. BINGAMAN for the Committee on Energy and Natural Resources. *J. Gregory Copeland, of Texas, to be General Counsel of the Department of Energy.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. DOLE:

S. 2703. A bill to reduce the reporting and certification burdens for certain financial institutions of sections 302 and 404 of the Sarbanes-Oxley Act of 2002; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. LINCOLN (for herself and Mr. CRAPO):

S. 2704. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of services of qualified respiratory therapists performed under the general supervision of a physician; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. INHOFE, Mr. OBAMA, Mr. LIEBERMAN, Mr. BIDEN, Mr. REED, Ms. MIKULSKI, Ms. COLLINS, Mr. MENENDEZ, Mrs. DOLE, and Mr. INOUYE):

S. 2705. A bill to authorize programs to increase the number of nurses within the Armed Forces through assistance for service as nurse faculty or education as nurses, and for other purposes; to the Committee on Armed Services.

By Mr. DORGAN:

S. 2706. A bill to impose a limitation on lifetime aggregate limits imposed by health plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CARDIN (for himself, Mr. BIDEN, Mr. CARPER, Mr. CASEY, Ms. MIKULSKI, Mr. SPECTER, Mr. WARNER, and Mr. WEBB):

S. 2707. A bill to amend the Chesapeake Bay Initiative Act of 1998 to provide for the continuing authorization of the Chesapeake Bay Gateways and Watertrails Network; to the Committee on Environment and Public Works.

By Mrs. BOXER:

S. 2708. A bill to amend the Public Health Service Act to attract and retain trained health care professionals and direct care workers dedicated to providing quality care to the growing population of older Americans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SESSIONS:

S. 2709. A bill to increase the criminal penalties for illegally reentering the United States and for other purposes; read the first time.

By Mr. SESSIONS:

S. 2710. A bill to authorize the Department of Homeland Security to use an employer's

failure to timely resolve discrepancies with the Social Security Administration after receiving a ''no match'' notice as evidence that the employer violated section 274A of the Immigration and Nationality Act; read the first time.

By Mr. SESSIONS:

S. 2711. A bill to improve the enforcement of laws prohibiting the employment of unauthorized aliens and for other purposes; read the first time.

By Mr. DEMINT:

S. 2712. A bill to require the Secretary of Homeland Security to complete at least 700 miles of reinforced fencing along the Southwest border by December 31, 2010, and for other purposes; read the first time.

By Mr. VITTER:

S. 2713. A bill to prohibit appropriated funds from being used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; read the first time.

By Mr. VITTER:

S. 2714. A bill to close the loophole that allowed the 9/11 hijackers to obtain credit cards from United States banks that financed their terrorists activities, to ensure that illegal immigrants cannot obtain credit cards to evade United States immigration laws, and for other purposes; read the first time.

By Mr. INHOFE:

S. 2715. A bill to amend title 4, United States Code, to declare English as the national language of the Government of the United States, and for other purposes; read the first time.

By Mr. DOMENICI:

S. 2716. A bill to authorize the National Guard to provide support for the border control activities of the United States Customs and Border Protection of the Departments of Homeland Security, and for other purposes; read the first time.

By Mr. CHAMBLISS (for himself and Mr. ISAKSON):

S. 2717. A bill to provide for enhanced Federal enforcement of, and State and local assistance in the enforcement of, the immigration laws of the United States, and for other purposes; read the first time.

By Mr. BARRASSO (for himself, Mr. ENZI, and Mr. VITTER):

S. 2718. A bill to withhold 10 percent of the Federal funding apportioned for highway construction and maintenance from States that issue driver's licenses to individuals without verifying the legal status of such individuals; read the first time.

By Mrs. DOLE:

S. 2719. A bill to provide that Executive Order 13166 shall have no force or effect, and to prohibit the use of funds for certain purposes; read the first time.

By Mr. SPECTER:

S. 2720. A bill to withhold Federal financial assistance from each country that denies or unreasonably delays the acceptance of nationals of such country who have been ordered removed from the United States and to prohibit the issuance of visas to nationals of such country; read the first time.

By Mr. ALEXANDER:

S. 2721. A bill to amend the Immigration and Nationality Act to prescribe the binding oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States, to encourage and support the efforts of prospective citizens of the United States to become citizens, and for other purposes; read the first time.

By Mrs. DOLE:

S. 2722. A bill to prohibit aliens who are repeat drunk drivers from obtaining legal status or immigration benefits; read the first time.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. KERRY, Ms. COLLINS, Mr. DODD, Mr. OBAMA, Mr. HARKIN, Mrs. CLINTON, Ms. CANTWELL, Mr. BIDEN, Mr. REED, Mrs. FEINSTEIN, Mr. SANDERS, Mr. TESTER, and Mr. STEVENS):

S.J. Res. 28. A joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. STABENOW (for herself, Mr. LEVIN, and Mr. VOINOVICH):

S. Res. 473. A resolution designating March 26, 2008, as ''National Support the Troops and Their Families Day'' and encouraging the people of the United States to participate in a moment of silence to reflect upon the service and sacrifice of members of the Armed Forces both at home and abroad, as well as the sacrifices of their families; considered and agreed to.

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. CHAMBLISS, Mr. DOMENICI, Mr. CASEY, Mr. KERRY, Mr. SANDERS, Mr. DURBIN, and Mr. DODD):

S. Res. 474. A resolution expressing the sense of the Senate that providing breakfast in schools through the National School Breakfast Program has a positive impact on the lives and classroom performance of low-income children; considered and agreed to.

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. MCCONNELL, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 12, a bill to promote home ownership, manufacturing, and economic growth.

S. 22

At the request of Mr. WEBB, the names of the Senator from Florida (Mr. NELSON), the Senator from Oregon (Mr. SMITH), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 22, a bill to amend title 38, United States Code, to establish a program of educational assistance for members of the Armed Forces who serve in the Armed Forces after September 11, 2001, and for other purposes.

S. 329

At the request of Mr. CRAPO, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 329, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 394

At the request of Mr. AKAKA, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 394, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 522

At the request of Mr. BAYH, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 522, a bill to safeguard the economic health of the United States and the health and safety of the United States citizens by improving the management, coordination, and effectiveness of domestic and international intellectual property rights enforcement, and for other purposes.

S. 594

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 594, a bill to limit the use, sale, and transfer of cluster munitions.

S. 626

At the request of Mr. KENNEDY, the names of the Senator from Missouri (Mrs. MCCASKILL), the Senator from North Carolina (Mrs. DOLE), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 626, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 803

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 803, a bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 805, a bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes.

S. 1161

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1161, a bill to amend title XVIII of the Social Security Act to authorize the expansion of Medicare coverage of medical nutrition therapy services.

S. 1164

At the request of Mr. CARDIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1164, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1310

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1310, a bill to amend title

XVIII of the Social Security Act to provide for an extension of increased payments for ground ambulance services under the Medicare program.

S. 1390

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 1390, a bill to provide for the issuance of a ''forever stamp'' to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart.

S. 1430

At the request of Mr. BROWNBACK, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1430, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1576

At the request of Mr. KENNEDY, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 1576, a bill to amend the Public Health Service Act to improve the health and healthcare of racial and ethnic minority groups.

S. 1675

At the request of Ms. CANTWELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1675, a bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

S. 1693

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1693, a bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1853

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1853, a bill to promote competition, to preserve the ability of local governments to provide broadband capability and services, and for other purposes.

S. 2004

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2004, a bill to amend title 38, United States Code, to establish epilepsy centers of excellence in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes.

S. 2119

At the request of Mr. JOHNSON, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2119, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 2170

At the request of Mrs. HUTCHISON, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2170, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of qualified restaurant property as 15-year property for purposes of the depreciation deduction.

S. 2243

At the request of Mr. SPECTER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2243, a bill to strongly encourage the Government of Saudi Arabia to end its support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, to secure full Saudi cooperation in the investigation of terrorist incidents, to denounce Saudi sponsorship of extremist Wahhabi ideology, and for other purposes.

S. 2369

At the request of Mr. BAUCUS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2369, a bill to amend title 35, United States Code, to provide that certain tax planning inventions are not patentable, and for other purposes.

S. 2421

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2421, a bill to amend the Internal Revenue Code of 1986 to provide tax benefits to individuals who have been wrongfully incarcerated.

S. 2439

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2439, a bill to require the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program to list cruelty to animals as a separate offense category.

S. 2458

At the request of Ms. LANDRIEU, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2458, a bill to promote and enhance the operation of local building code enforcement administration across the country by establishing a competitive Federal matching grant program.

S. 2460

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2460, a bill to extend by one year the moratorium on implementation of a rule relating to the Federal-State financial partnership under Medicaid and the State Children's Health Insurance Program and on finalization of a rule regarding graduate medical education under Medicaid and to include a moratorium on the finalization of the outpatient Medicaid rule making similar changes.

S. 2598

At the request of Mr. DORGAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2598, a bill to increase the supply and lower the cost of petroleum by temporarily suspending the acquisition of petroleum for the Strategic Petroleum Reserve.

S. 2606

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2606, a bill to reauthorize the United States Fire Administration, and for other purposes.

S. 2639

At the request of Mr. THUNE, his name was added as a cosponsor of S. 2639, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. RES. 455

At the request of Mr. DURBIN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Res. 455, a resolution calling for peace in Darfur.

S. RES. 459

At the request of Mr. LUGAR, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. Res. 459, a resolution expressing the strong support of the Senate for the North Atlantic Treaty Organization to extend invitations for membership to Albania, Croatia, and Macedonia at the April 2008 Bucharest Summit, and for other purposes.

AMENDMENT NO. 4088

At the request of Ms. KLOBUCHAR, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of amendment No. 4088 intended to be proposed to 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.

AMENDMENT NO. 4093

At the request of Ms. MIKULSKI, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of amendment No. 4093 intended to be proposed to 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.

AMENDMENT NO. 4105

At the request of Ms. KLOBUCHAR, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of amendment No. 4105 proposed to 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.

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 4105 proposed to S. 2663, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2716. A bill to authorize the National Guard to provide support for the border control activities of the United States Customs and Border Protection of the Department of Homeland Security, and for other purposes; read the first time.

Mr. DOMENICI Mr. President, I rise today to introduce a bill that builds upon border security successes achieved as part of Operation Jump Start by continuing that effort and allowing Governors to use their respective State's National Guard units for border activities in support of U.S. Customs and Border Protection, CBP.

As a border State Senator, I know firsthand the need to secure our international borders because every day I hear from constituents who must deal with illegal entries into our country. We have a crisis on our borders, and the status quo is not acceptable.

I also know firsthand the improvements in border security we have made over the past few years. One of those successes has come in the form of Operation Jumpstart, which was an initiative begun in the summer of 2006 to allow National Guardsmen from across America to deploy to the southwest border in support of CBP. This program proved successful almost immediately. During the summer of 2006, Border Patrol agents apprehended more than 2,500 illegal immigrants in about 6 weeks with the support of National Guardsmen. Tens of thousands of pounds of illegal drugs were seized during the same time period.

The program is also beneficial to the National Guard. Deploying as part of Operation Jumpstart has allowed these men and women to gain valuable training in areas including construction, vehicle maintenance, technology support, aviation support, intelligence support, surveillance and reconnaissance support, and intelligence analysis.

Despite these successes, Operation Jumpstart is being phased out; there are fewer National Guardsmen on the border today than there were a year ago. I believe to phase out this mutually beneficial work between CBP and the National Guard is a mistake, and National Guardsmen should be able to continue helping to secure our border.

For that reason, I am introducing legislation that addresses this need in two ways. First, the bill calls for the continuation of Operation Jumpstart at its initial level of 6,000 guardsmen on the southwest border until we have control of that border. Second, the bill expands existing Federal law that allows Governors to utilize their State's guardsmen for drug interdiction and counterdrug activities to allow Governors to also utilize their State's guardsmen for border control activities, including constructing roads, fences, and vehicle barriers, conducting search and rescue missions, gathering intelligence, repairing infrastructure, and otherwise supporting CBP. The legislation provides that in order to utilize guardsmen for border activities, Governors must submit plans to the Secretary of Defense regarding the use of the Guard, and the plans must be approved by the Secretary of Defense in consultation with the Secretary of Homeland Security. Additionally, the Secretary of Defense would be required to submit an annual report to Congress regarding the activities carried out as part of this work under my bill.

Mr. President, I believe our National Guardsmen are an invaluable asset in securing our borders, and I believe guardsmen should be able to continue working on the border.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 473—DESIGNATING MARCH 26, 2008, AS ''NATIONAL SUPPORT THE TROOPS AND THEIR FAMILIES DAY'' AND ENCOURAGING THE PEOPLE OF THE UNITED STATES TO PARTICIPATE IN A MOMENT OF SILENCE TO REFLECT UPON THE SERVICE AND SACRIFICE OF MEMBERS OF THE ARMED FORCES BOTH AT HOME AND ABROAD, AS WELL AS THE SACRIFICES OF THEIR FAMILIES

Ms. STABENOW (for herself, Mr. LEVIN, and Mr. VOINOVICH) submitted the following resolution; which was considered and agreed to:

S. RES. 473

Whereas it was through the brave and noble efforts of the Nation's forefathers that the United States first gained freedom and became a sovereign country;

Whereas there are more than 1,500,000 active and reserve component members of the Armed Forces serving the Nation in support and defense of the values and freedom that all Americans cherish;

Whereas the members of the Armed Forces deserve the utmost respect and admiration of their fellow Americans for putting their lives in danger for the sake of the freedoms enjoyed by all Americans;

Whereas members of the Armed Forces are defending freedom and democracy around the globe and are playing a vital role in protecting the safety and security of Americans;

Whereas the families of our Nation's troops have made great sacrifices and deserve the support of all Americans;

Whereas all Americans should participate in a moment of silence to support the troops and their families; and

Whereas March 26th, 2008, is designated as ''National Support Our Troops and Their Families Day'': Now, therefore, be it

Resolved, That—

(1) the Senate designates March 26, 2008, as ''National Support the Troops and Their Families Day''; and

(2) it is the sense of the Senate that all Americans should participate in a moment of silence to reflect upon the service and sacrifice of members of the United States Armed Forces both at home and abroad, as well as their families.

SENATE RESOLUTION 474—EXPRESSING THE SENSE OF THE SENATE THAT PROVIDING BREAKFAST IN SCHOOLS THROUGH THE NATIONAL SCHOOL BREAKFAST PROGRAM HAS A POSITIVE IMPACT ON THE LIVES AND CLASSROOM PERFORMANCE OF LOW-INCOME CHILDREN

Mr. FEINGOLD (for himself, Mr. KOHL, Mr. CHAMBLISS, Mr. DOMENICI, Mr. CASEY, Mr. KERRY, Mr. SANDERS, Mr. DURBIN, and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 474

Whereas participants in the National School Breakfast Program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) include public, private, elementary, middle, and high schools, as well as schools in rural, suburban, and urban areas;

Whereas access to nutrition programs such as the National School Lunch Program and the National School Breakfast Program helps to create a stronger learning environment for children and improves children's concentration in the classroom;

Whereas missing breakfast and the resulting hunger has been shown to harm the ability of children to learn and hinders academic performance;

Whereas students who eat a complete breakfast have been shown to make fewer mistakes and to work faster in math exercises than those who eat a partial breakfast;

Whereas implementing or improving classroom breakfast programs has been shown to increase breakfast consumption among eligible students dramatically, doubling and in some cases tripling numbers of participants in school breakfast programs, as evidenced by research in Minnesota, New York, and Wisconsin;

Whereas providing breakfast in the classroom has been shown in several instances to improve attentiveness and academic performance, while reducing absences, tardiness, and disciplinary referrals;

Whereas studies suggest that eating breakfast closer to the time students arrive in the classroom and take tests improves the students' performance on standardized tests;

Whereas studies show that students who skip breakfast are more likely to have difficulty distinguishing among similar images, show increased errors, and have slower memory recall;

Whereas children who live in families that experience hunger are likely to have lower math scores, receive more special education services, and face an increased likelihood of repeating a grade;

Whereas making breakfast widely available in different venues or in a combination of venues, such as by providing breakfast in the classroom, in the hallways outside classrooms, or to students as they exit their school buses, has been shown to lessen the stigma of receiving free or reduced-price school breakfasts, which sometimes prevents eligible students from obtaining traditional breakfast in the cafeteria;

Whereas, in fiscal year 2006, 7,700,000 students in the United States consumed free or reduced-price school breakfasts provided under the National School Breakfast Program;

Whereas less than half of the low-income students who participate in the National School Lunch Program also participate in the National School Breakfast Program;

Whereas almost 17,000 schools that participate in the National School Lunch Program do not participate in the National School Breakfast Program;

Whereas studies suggest that children who eat breakfast take in more nutrients, such as calcium, fiber, protein, and vitamins A, E, D, and B-6;

Whereas studies show that children who participate in school breakfast programs eat more fruits, drink more milk, and consume less saturated fat than those who do not eat breakfast; and

Whereas children who do not eat breakfast, either in school or at home, are more likely to be overweight than children who eat a healthy breakfast on a daily basis: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the importance of the National School Breakfast Program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and the positive impact of the Program on the lives of low-income children and families and on children's overall classroom performance;

(2) expresses strong support for States that have successfully implemented school breakfast programs in order to alleviate hunger and improve the test scores and grades of participating students;

(3) encourages all States to strengthen their school breakfast programs, provide incentives for the expansion of school breakfast programs, and promote improvements in the nutritional quality of breakfasts served; and

(4) recognizes the need to provide States with resources to improve the availability of adequate and nutritious breakfasts.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4108. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2663, 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.

SA 4109. Mr. CASEY (for himself, Mr. BROWN, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 2663, supra.

SA 4110. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4111. Mr. KOHL (for himself, Mr. GRAHAM, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4112. Mrs. BOXER (for herself, Mr. COLEMAN, and Mr. MARTINEZ) submitted an amendment intended to be proposed by her to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4113. Mr. REID (for Mr. OBAMA (for himself and Mr. CARDIN)) submitted an amendment intended to be proposed by Mr. REID to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4114. Mr. REID (for Mr. OBAMA) submitted an amendment intended to be proposed by Mr. REID to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4115. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4116. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4117. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4118. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4119. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4120. Ms. LANDRIEU (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4121. Mr. BUNNING (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4122. Mr. DORGAN proposed an amendment to the bill S. 2663, supra.

SA 4123. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4124. Mr. DEMINT proposed an amendment to the bill S. 2663, supra.

SA 4125. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4126. Mrs. BOXER (for herself, Mrs. FEINSTEIN, Mr. CARDIN, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4127. Mrs. BOXER (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4128. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4129. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4130. Mr. NELSON of Florida (for himself and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4131. Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4132. Mr. BROWN (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill S. 2663, supra; which was ordered to lie on the table.

SA 4133. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2663, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4108. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2663, 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; as follows:

On page 63, strike line 6 and all that follows through page 64, line 6, and insert the following:

in an amount not to exceed $15,000 for 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 $15,000, to be paid by the complainant.

''(4)(A) 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).

''(B) In an action brought under subparagraph (A), the court may grant injunctive relief and compensatory damages to the complainant. The court may also grant any other monetary relief to the complainant available at law or equity, not exceeding a total amount of $50,000, including consequential damages, reasonable attorneys and expert witness fees, court costs, and punitive damages.

''(C) If the court finds that an action brought under subparagraph (A) is frivolous or has been brought in bad faith, the court may award to the prevailing employer a reasonable attorneys' fee, not exceeding $15,000, to be paid by the complainant.

SA 4109. Mr. CASEY (for himself, Mr. BROWN, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 2663, 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; as follows:

On page 103, after line 12, add the following:

SEC. 40. CONSUMER PRODUCT SAFETY STANDARDS USE OF FORMALDEHYDE IN TEXTILE AND APPAREL ARTICLES.

(a) STUDY ON USE OF FORMALDEHYDE IN MANUFACTURING OF TEXTILE AND APPAREL ARTICLES.—Not later than 2 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall conduct a study on the use of formaldehyde in the manufacture of textile and apparel articles, or in any component of such articles, to identify any risks to consumers caused by the use of formaldehyde in the manufacturing of such articles, or components of such articles.

(b) CONSUMER PRODUCT SAFETY STANDARD.—Not later than 3 years after the date of the enactment of this Act, the Consumer Product Safety Commission shall prescribe a consumer product safety standard under section 7(a) of the Consumer Product Safety Act (15 U.S.C. 2056(a)) with respect to textile and apparel articles, and components of such articles, in which formaldehyde was used in the manufacture thereof.

(c) RULE TO ESTABLISH TESTING PROGRAM.—

(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Consumer Product Safety Commission

shall prescribe under section 14(b) of such Act (15 U.S.C. 2063(b)) a reasonable testing program for textile and apparel articles, and components of such articles, in which formaldehyde was used in the manufacture thereof.

(2) INDEPENDENT THIRD PARTY.—In prescribing the testing program under paragraph (1), the Consumer Product Safety Commission shall require, as a condition of receiving certification under subsection (a) of section 14 of such Act (15 U.S.C. 2063), that such articles or components are tested by an independent third party qualified to perform such testing program in accordance with the rules promulgated under subsection (d) of such section, as added by section 10(c) of this Act.

(d) PREEMPTION.—Nothing in this section or section 18(b)(1)(B) of the Federal Hazardous Substances Act (15 U.S.C. 1261 note) shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any provision of State or local law that—

(1) protects consumers from risks of illness or injury caused by the use of hazardous substances in the manufacture of textile and apparel articles, or components of such articles; and

(2) provides a greater degree of such protection than that provided under this section.

(e) SENSE OF THE CONGRESS.—Congress finds that:

(1) Formaldehyde has been a known health risk since the 1960s;

(2) As international trade in textiles has grown a number of countries have recently recalled a number of textile products for excessive levels of formaldehyde; and

(3) The Federal Emergency Management Agency and the Centers for Disease Control released formaldehyde testing results from trailers in Louisiana and Mississippi on February 14, 2008:

(A) Results of these tests showed levels of toxic formaldehyde that were on average five times as high as normal;

(B) Formaldehyde in textiles is a known contributor to increased indoor air concentrations of formaldehyde; and

(C) The Centers for Disease Control has recommended residents of the 2005 hurricanes living in Federal Emergency Management Agency trailers immediately move out due to health concerns.

SA 4110. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2663, 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 program, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, after line 12, add the following:

SEC. 40. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON CIVIL PENALTIES.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a study to assess the amount of civil penalties imposed and authorized to be imposed pursuant to the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and other Federal regulatory laws.

(b) FEDERAL REGULATORY LAWS DEFINED.—In this section, the term ''Federal regulatory laws'' means Federal laws designed to protect the safety of the public, including the Consumer Product Safety Act (15 U.S.C. 2051 et seq.), chapter 301 of title 49, United States Code (relating to motor vehicle safety), the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and laws relating to environmental protection.

(c) CONTENTS.—The study required under subsection (a) shall—

(1) compare and assess—

(A) the maximum amount of civil penalties that may be imposed pursuant to the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and other Federal regulatory laws;

(B) the actual amount of penalties imposed by Federal agencies pursuant to the Consumer Product Safety Act and other Federal regulatory laws; and

(C) the costs to manufacturers and other persons of complying with the Consumer Product Safety Act, other Federal regulatory laws, and regulations promulgated pursuant to such Act and laws, including costs associated with recalls of products; and

(2) include recommendations regarding the amount of civil penalties appropriate to further the purposes of the Consumer Product Safety Act and other Federal regulatory laws, considering—

(A) the deterrent effect of civil penalties; and

(B) the actual and potential burdens of civil penalties on large and small businesses.

(d) SUBMISSION TO CONGRESS.—The Comptroller General of the United States shall submit the study required under subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than 1 year after the date of the enactment of this Act.

SA 4111. Mr. KOHL (for himself, Mr. GRAHAM, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. 40. SUNSHINE IN LITIGATION.

(a) SHORT TITLE.—This section may be cited as the ''Sunshine in Litigation Act of 2008''.

(b) RESTRICTIONS ON PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS.—

(1) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

''§ 1660. Restrictions on protective orders and sealing of cases and settlements

''(a)(1) A court shall not enter an order under rule 26(c) of the Federal Rules of Civil Procedure restricting the disclosure of information obtained through discovery, an order approving a settlement agreement that would restrict the disclosure of such information, or an order restricting access to court records in a civil case unless the court has made findings of fact that—

''(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

''(B)(i) the public interest in the disclosure of potential health or safety hazards is outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

''(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

''(2) No order entered in accordance with paragraph (1), other than an order approving a settlement agreement, shall continue in effect after the entry of final judgment, unless at the time of, or after, such entry the court makes a separate finding of fact that the requirements of paragraph (1) have been met.

''(3) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

''(4) This section shall apply even if an order under paragraph (1) is requested—

''(A) by motion pursuant to rule 26(c) of the Federal Rules of Civil Procedure; or

''(B) by application pursuant to the stipulation of the parties.

''(5)(A) The provisions of this section shall not constitute grounds for the withholding of information in discovery that is otherwise discoverable under rule 26 of the Federal Rules of Civil Procedure.

''(B) No party shall request, as a condition for the production of discovery, that another party stipulate to an order that would violate this section.

''(b)(1) A court shall not approve or enforce any provision of an agreement between or among parties to a civil action, or approve or enforce an order subject to subsection (a)(1), that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

''(2) Any such information disclosed to a Federal or State agency shall be confidential to the extent provided by law.

''(c)(1) Subject to paragraph (2), a court shall not enforce any provision of a settlement agreement described under subsection (a)(1) between or among parties that prohibits 1 or more parties from—

''(A) disclosing that a settlement was reached or the terms of such settlement, other than the amount of money paid; or

''(B) discussing a case, or evidence produced in the case, that involves matters related to public health or safety.

''(2) Paragraph (1) does not apply if the court has made findings of fact that the public interest in the disclosure of potential health or safety hazards is outweighed by a specific and substantial interest in maintaining the confidentiality of the information.

''(d) When weighing the interest in maintaining confidentiality under this section, there shall be a rebuttable presumption that the interest in protecting personally identifiable information relating to financial, health or other similar information of an individual outweighs the public interest in disclosure.

''(e) Nothing in this section shall be construed to permit, require, or authorize the disclosure of classified information (as defined under section 1 of the Classified Information Procedures Act (18 U.S.C. App.)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1659 the following:

''1660. Restrictions on protective orders and sealing of cases and settlements.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall—

(1) take effect 30 days after the date of enactment of this Act; and

(2) apply only to orders entered in civil actions or agreements entered into on or after such date.

SA 4112. Mrs. BOXER (for herself, Mr. COLEMAN, and Mr. MARTINEZ) submitted an amendment intended to be

proposed by her to the bill S. 2663, 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 program, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, line 2, insert ''that provides a direct means of purchase'' before ''posted by a manufacturer''.

SA 4113. Mr. REID (for Mr. OBAMA (for himself and Mr. CARDIN)) submitted an amendment intended to be proposed by Mr. REID to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

On page 103, after line 12, insert the following:

SEC. 40. REQUIREMENTS FOR RECALL NOTICES.

(a) IN GENERAL.—Section 15 (15 U.S.C. 2064) is amended by adding at the end the following:

''(i) REQUIREMENTS FOR RECALL NOTICES.—

''(1) IN GENERAL.—If the Commission determines that a product distributed in commerce presents a substantial product hazard and that action under subsection (d) is in the public interest, the Commission may order the manufacturer or any distributor or retailer of the product to distribute notice of the action to the public. The notice shall include the following:

''(A) A description of the product, including—

''(i) the model number or stock keeping unit (SKU) number of the product;

''(ii) the names by which the product is commonly known; and

''(iii) a photograph of the product.

''(B) A description of the action being taken with respect to the product.

''(C) The number of units of the product with respect to which the action is being taken.

''(D) A description of the substantial product hazard and the reasons for the action.

''(E) An identification of the manufacturers, importers, distributers, and retailers of the product.

''(F) The locations where, and Internet websites from which, the product was sold.

''(G) The name and location of the factory at which the product was produced.

''(H) The dates between which the product was manufactured and sold.

''(I) The number and a description of any injuries or deaths associated with the product, the ages of any individuals injured or killed, and the dates on which the Commission received information about such injuries or deaths.

''(J) A description of—

''(i) any remedy available to a consumer;

''(ii) any action a consumer must take to obtain a remedy; and

''(iii) any information a consumer needs to take to obtain a remedy or information about a remedy, such as mailing addresses, telephone numbers, fax numbers, and email addresses.

''(K) Any other information the Commission determines necessary.

''(2) NOTICES IN LANGUAGES OTHER THAN ENGLISH.—The Commission may require a notice described in paragraph (1) to be distributed in a language other than English if the Commission determines that doing so is necessary to adequately protect the public.''.

(b) PUBLICATION OF INFORMATION ON RECALLED PRODUCTS.—Beginning not later than 1 year after the date of the enactment of this Act, the Consumer Product Safety Commission shall make the following information available to the public as the information becomes available to the Commission:

(1) Progress reports and incident updates with respect to action plans implemented under section 15(d) of the Consumer Product Safety Act (15 U.S.C. 2064(d)).

(2) Statistics with respect to injuries and deaths associated with products that the Commission determines present a substantial product hazard under section 15(c) of the Consumer Product Safety Act (15 U.S.C. 2064(c)).

(3) The number and type of communication from consumers to the Commission with respect to each product with respect to which the Commission takes action under section 15(d) of the Consumer Product Safety Act (15 U.S.C. 2064(d)).

SA 4114. Mr. REID (for Mr. OBAMA) submitted an amendment intended to be proposed by Mr. REID to the bill S. 2663, 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 program, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, after line 12, add the following:

SEC. 40. STUDY AND REPORT ON EFFECTIVENESS OF AUTHORITIES RELATING TO SAFETY OF IMPORTED CONSUMER PRODUCTS.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study of the authorities and provisions of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) to assess the effectiveness of such authorities and provisions in preventing unsafe consumer products from entering the customs territory of the United States;

(2) develop a plan to improve the effectiveness of the Consumer Product Safety Commission in preventing unsafe consumer products from entering such customs territory; and

(3) submit to Congress a report on the findings of the Comptroller General with respect to paragraphs (1) through (3), including legislative recommendations related to—

(A) inspection of foreign manufacturing plants by the Consumer Product Safety Commission; and

(B) requiring foreign manufacturers to consent to the jurisdiction of United States courts with respect to enforcement actions by the Consumer Product Safety Commission.

SA 4115 Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

At page 61, lines 11 and 23, insert the word ''substantial'' before ''contributing factor''.

At page 61, line 17, and at page 62, line 2, strike ''clear and convincing evidence'' and insert ''a preponderance of the evidence''.

SA 4116. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

At page 58, insert between lines 7 and 8 the following:

''(h) If private counsel is retained to assist in any civil action under subsection (a), the State may not demand or receive discovery of information that is protected by the attorney-client privilege, unless a private party would be able to obtain discovery of the same information in a comparable private civil action.''

SA 4117. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

At page 64, line 6, and at page 65, line 17, insert after the period the following:

''If the court finds that no genuine issue of fact or law exists with regard to a claim asserted pursuant to this paragraph that would allow a reasonable juror to find in favor of the party presenting the claim, the court shall award to the prevailing party 30 percent of the reasonable attorney's fees that were incurred by the prevailing party in connection with that claim.''

SA 4118. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

At page 58, line 7, insert before the quotation mark the following:

''If private counsel is retained in any civil action under subsection (a), the court shall review the fees proposed to be paid to the private counsel and shall limit those fees to an amount that is reasonable in light of the hours of work actually performed by the private counsel and the risk of nonpayment of fees assumed by that counsel when he agreed to represent the party. The court may, as appropriate, retain the services of an independent accounting firm to assist the court in conducting a review under this subsection.''

SA 4119. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

On page 92, between lines 9 and 10, insert the following:

(c) USE OF ALTERNATIVE RECALL NOTIFICATION TECHNOLOGY.—

(1) IN GENERAL.—If new recall notification technology becomes available and the Consumer Product Safety Commission determines that such new recall notification technology is at least as effective as the use of consumer registration forms, then the Commission shall inform the public of its findings, report to Congress, and shall allow manufacturers that utilize such new recall technology as an alternative means of fulfilling the requirements of subsection (c). The Commission shall make a determination as to the effectiveness of such new recall notification technology after a minimum of 6 months, but no more than 1 year of testing or empirical study or a combination thereof and shall issue its determination no later than 1 year after conclusion of such testing or empirical study.

(2) REGULATIONS.—The Commission shall prescribe regulations to carry out this subsection.

SA 4120. Ms. LANDRIEU (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

On page 92, between lines 9 and 10, insert the following:

(c) USE OF ALTERNATIVE RECALL NOTIFICATION TECHNOLOGY.—

(1) IN GENERAL.—If the Commission determines that a recall notification technology can be used by a manufacturer of durable infant or toddler products and such technology is as effective or more effective in facilitating recalls of durable infant or toddler products as the registration forms required by subsection (a)—

(A) the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on such determination; and

(B) a manufacturer of durable infant or toddler products that uses such technology in lieu of such registration forms to facilitate recalls of durable infant or toddler products shall be considered in compliance with the regulations promulgated under such subsection with respect to subparagraphs (A) and (B) of paragraph (1) of such subsection.

(2) STUDY AND REPORT.—Not later than 1 year after the date of the enactment of this Act and periodically thereafter as the Commission considers appropriate, the Commission shall—

(A) for a period of not less than 6 months and not more than 1 year—

(i) conduct a review of recall notification technology; and

(ii) assess, through testing and empirical study, the effectiveness of such technology in facilitating recalls of durable infant or toddler products; and

(B) submit to the committees described in paragraph (1)(A) a report on the review and assessment required by subparagraph (A).

(3) REGULATIONS.—The Commission shall prescribe regulations to carry out this subsection.

SA 4121. Mr. BUNNING (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—EXCHANGE RATES

SEC. ____01. SHORT TITLE.

This title may be cited as the ''China Currency Manipulation Act of 2008''.

SEC. ____02. FINDINGS.

Congress makes the following findings:

(1) The People's Republic of China has a material global current account surplus.

(2) The People's Republic of China has, since 2000, accumulated a current account surplus with the United States of approximately $1,200,000,000,000, twice the size of the current account surplus of any other United States trade partner.

(3) The People's Republic of China has engaged in protracted large-scale intervention in currency markets, thereby subsidizing Chinese-made products and erecting a formidable nontariff barrier to trade to United States exports to the People's Republic of China, in contravention of the spirit and intent of the General Agreement on Tariffs and Trade and the Articles of Agreement of the International Monetary Fund.

SEC. ____03. ACTION TO ACHIEVE FAIR CURRENCY.

(a) DETERMINATION.—Notwithstanding any other provision of law, the Secretary of the Treasury shall make an affirmative determination that the People's Republic of China is manipulating its currency within the meaning of section 3004(b) of the Exchange Rates and International Economic Policies Coordination Act of 1988 (22 U.S.C. 5304(b)) and take the action described in subsections (b), (c), and (d).

(b) ACTION.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 30 days after the date of the enactment of this Act, establish a plan of action to remedy currency manipulation by the People's Republic of China, and submit a report regarding that plan, to the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate and the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

(2) BENCHMARKS.—The report described in paragraph (1) shall include specific benchmarks and timeframes for correcting the currency manipulation.

(c) INITIAL NEGOTIATIONS.—The Secretary shall initiate, on an expedited basis, bilateral negotiations with the People's Republic of China for the purpose of ensuring that the country regularly and promptly adjusts the rate of exchange between its currency and the United States dollar to permit effective balance of payment adjustments and to eliminate the unfair competitive advantage.

(d) COORDINATION WITH THE INTERNATIONAL MONETARY FUND.—The Secretary of the Treasury shall, not later than 30 days after the date of the enactment of this Act, instruct the Executive Director to the International Monetary Fund to use the voice and vote of the United States, including requesting consultations under Article IV of the Articles of Agreement of the International Monetary Fund, for the purpose of ensuring the People's Republic of China regularly and promptly adjusts the rate of exchange between its currency and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair competitive advantage in trade.

SA 4122. Mr. DORGAN proposed an amendment to the bill S. 2663, 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; as follows:

On page 25, beginning with line 21, strike through line 13 on page 29 and insert the following:

''(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) 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)(ii) 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) 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 (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.

''(D) DECERTIFICATION.—The Commission, or an independent standard-setting organization to which the Commission has delegated such authority, may decertify a third party laboratory if it finds, after notice and investigation, that a manufacturer or private labeler has exerted undue influence on the laboratory.''.

SA 4123. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

On page 65, between lines 17 and 18, insert the following:

''(8) Notwithstanding paragraphs (1) through (7), a Federal employee shall be limited to the remedies available under chapters 12 and 23 of title 5, United States Code, for any violation of this section.

SA 4124. Mr. DEMINT proposed an amendment to the bill S. 2663, 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; as follows:

Beginning on page 85, strike line 22 and all that follows through page 86, line 8.

SA 4125. Mr. CORBIN submitted an amendment intended to be proposed by him to the bill S. 2663, 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 program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PUBLICLY AVAILABLE DATABASE OF TRIAL LAWYERS WINDFALL PROFITS.

Section 6 (15 U.S.C. 2055) is amended by adding at the end the following new subsections:

''(f) PUBLICLY AVAILABLE DATABASE OF TRIAL LAWYERS WINDFALL PROFITS.—

''(1) IN GENERAL.—Not later than 1 year after the date of the enactment of the CPSC Reform Act, the Commission shall establish and maintain a publicly available searchable database accessible on the Commission's web site that includes information about all civil actions filed after the date of the enactment of this Act with respect to consumer products. The database shall include, with respect to each such civil action—

''(A) the identity of each law firm or attorney representing the parties to such action;

''(B) information on lawyer's fees, rates, and the retainer received by the Commission from—

''(i) lawyers, union members, teamsters, and lobbyists; and

''(ii) Federal, State, and local government agencies; and

''(C) the amount of any damages, fees, or other compensation awarded, including a breakdown of the disbursement of such damages, fees, or other compensation to the parties to the action and each law firm or attorney representing such parties.

''(2) ORGANIZATION OF DATABASE.—The Commission shall categorize the information available on the database by date, civil action, representing law firm or attorney, and any other category the Commission determines to be in the public interest.

''(3) TIMING.—The Commission shall include in the database the information referred to in paragraph (1) not later than 15 days after such information becomes available to the Commission.

''(4) APPLICATION WITH CONSUMER PRODUCT SAFETY DATABASE.—If a civil action reported in the database pertains to information reported in the database maintained under subsection (b)(9), the results of the action shall be included together with such report on such database.

''(g) FUNDING FOR DATABASES.—The databases established and maintained under subsections (b) and (f) shall be funded solely through amounts deposited into the CPSC Database Maintenance Fund established under section ___ of the CPSC Reform Act.''.

SEC. ___. CPSC DATABASE MAINTENANCE FUND.

(a) ESTABLISHMENT AND ADMINISTRATION.—The Secretary of the Treasury shall establish a special account in the Treasury of the United States to be known as the CPSC Database Maintenance Fund (in this section referred to as the ''Fund''). The Fund shall be administered by the Consumer Product Safety Commission.

(b) USE OF FUND.—The Commission shall use the assets of the Fund only for the purpose of establishing and maintaining the consumer product safety database and the civil action fees and awards database under subsections (b) and (f), respectively, of section 6 of the Consumer Product Safety Act (15 U.S.C. 2055), as added by section 7(14) and section ___, respectively, of this Act.

(c) DEPOSITS.—There shall be deposited into the Fund 1 percent of all costs and fees awarded to attorneys generals with respect to civil actions under section 26A(g) of the Consumer Product Safety Act, as added by section 20(a) of this Act.

(d) AVAILABILITY.—Amounts deposited under subsection (c) shall constitute the assets of the Fund and remain available until expended.

SA 4126. Mrs. BOXER (for herself, Mrs. FEINSTEIN, Mr. CARDIN, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill S. 2663, 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 program, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, after line 12, add the following:

SEC. 40. PERCHLORATE MONITORING AND RIGHT-TO-KNOW.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) perchlorate—

(i) is a chemical used as the primary ingredient of solid rocket propellant; and

(ii) is also used in fireworks, road flares, and other applications;

(B) waste from the manufacture and improper disposal of chemicals containing perchlorate is increasingly being discovered in soil and water;

(C) according to the Government Accountability Office, perchlorate contamination has been detected in water and soil at almost 400 sites in the United States, with concentration levels ranging from 4 parts per billion to millions of parts per billion;

(D) the Government Accountability Office has determined that the Environmental Protection Agency does not centrally track or monitor perchlorate detections or the status of perchlorate cleanup, so a greater number of contaminated sites may already exist;

(E) according to the Government Accountability Office, limited Environmental Protection Agency data show that perchlorate has been found in 35 States and the District of Columbia and is known to have contaminated 153 public water systems in 26 States;

(F) those data are likely underestimates of total drinking water exposure, as illustrated by the finding of the California Department of Health Services that perchlorate contamination sites have affected approximately 276 drinking water sources and 77 drinking water systems in the State of California alone;

(G) Food and Drug Administration scientists and other scientific researchers have detected perchlorate in the United States food supply, including in lettuce, milk, cucumbers, tomatoes, carrots, cantaloupe, wheat, and spinach, and in human breast milk;

(H)(i) perchlorate can harm human health, especially in pregnant women and children, by interfering with uptake of iodide by the thyroid gland, which is necessary to produce important hormones that help control human health and development;

(ii) in adults, the thyroid helps to regulate metabolism;

(iii) in children, the thyroid helps to ensure proper mental and physical development; and

(iv) impairment of thyroid function in expectant mothers or infants may result in effects including delayed development and decreased learning capability;

(I)(i) in October 2006, researchers from the Centers for Disease Control and Prevention published the largest, most comprehensive study to date on the effects of low levels of perchlorate exposure in women, finding that—

(I) significant changes existed in thyroid hormones in women with low iodine levels who were exposed to perchlorate; and

(II) even low-level perchlorate exposure may affect the production of hormones by the thyroid in iodine-deficient women; and

(ii) in the United States, about 36 percent of women have iodine levels equivalent to or below the levels of the women in the study described in clause (i);

(J) the Environmental Protection Agency has not established a health advisory or national primary drinking water regulation for perchlorate, but instead established a ''Drinking Water Equivalent Level'' of 24.5 parts per billion for perchlorate, which—

(i) does not take into consideration all routes of exposure to perchlorate;

(ii) has been criticized by experts as failing to sufficiently consider the body weight, unique exposure, and vulnerabilities of certain pregnant women and fetuses, infants, and children; and

(iii) is based primarily on a small study and does not take into account new, larger studies of the Centers for Disease Control and Prevention or other data indicating potential effects at lower perchlorate levels than previously found;

(K) on August 22, 2005 (70 Fed. Reg. 49094), the Administrator proposed to extend the requirement that perchlorate be monitored in drinking water under the final rule entitled ''Unregulated Contaminant Monitoring Regulation (UCMR) for Public Water Systems Revisions'' promulgated pursuant to section

1445(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–4(a)(2)); and

(L) on December 20, 2006, the Administrator signed a final rule removing perchlorate from the list of contaminants for which monitoring is required under the final rule entitled ''Unregulated Contaminant Monitoring Regulation (UCMR) for Public Water Systems Revisions'' (72 Fed. Reg. 368 (January 4, 2007)).

(2) PURPOSE.—The purpose of this section is to require the Administrator of the Environmental Protection Agency—

(A) to establish, not later than 90 days after the date of enactment of this Act, a health advisory that—

(i) is fully protective of, and considers, the body weight and exposure patterns of pregnant women, fetuses, newborns, and children;

(ii) provides an adequate margin of safety; and

(iii) takes into account all routes of exposure to perchlorate;

(B) to promulgate, not later than 120 days after the date of enactment of this Act, a final regulation requiring monitoring for perchlorate in drinking water; and

(C) to ensure the right of the public to know about perchlorate in drinking water by requiring that consumer confidence reports disclose the presence and potential health effects of perchlorate in drinking water.

(b) MONITORING AND HEALTH ADVISORY FOR PERCHLORATE.—Section 1412(b)(12) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(12)) is amended by adding at the end the following:

''(C) PERCHLORATE.—

''(i) HEALTH ADVISORY.—Not later than 90 days after the date of enactment of this subparagraph, the Administrator shall publish a health advisory for perchlorate that fully protects, with an adequate margin of safety, the health of vulnerable persons (including pregnant women, fetuses, newborns, and children), considering body weight and exposure patterns and all routes of exposure.

''(ii) MONITORING REGULATIONS.—

''(I) IN GENERAL.—The Administrator shall propose (not later than 60 days after the date of enactment of this subparagraph) and promulgate (not later than 120 days after the date of enactment of this subparagraph) a final regulation requiring—

''(aa) each public water system serving more than 10,000 individuals to monitor for perchlorate beginning not later than October 31, 2008; and

''(bb) the collection of a representative sample of public water systems serving 10,000 individuals or fewer to monitor for perchlorate in accordance with section 1445(a)(2).

''(II) DURATION.—The regulation shall be in effect unless and until monitoring for perchlorate is required under a national primary drinking water regulation for perchlorate.

''(iii) CONSUMER CONFIDENCE REPORTS.—Each consumer confidence report issued under section 1414(c)(4) shall disclose the presence of any perchlorate in drinking water, and the potential health risks of exposure to perchlorate in drinking water, consistent with guidance issued by the Administrator.''.

SA 4127. Mrs. BOXER (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

On page 103, after line 12, add the following:

SEC. 40. BAN ON MICROWAVE POPCORN THAT CONTAINS INTENTIONALLY-ADDED DIACETYL.

Notwithstanding any other provision of law, effective January 1, 2009, microwave popcorn that contains intentionally-added diacetyl shall be treated as banned under such Act (15 U.S.C. 1261 et seq.) as if such microwave popcorn were described by section 2(q)(1) of such Act (15 U.S.C. 1261(q)(1)), and the prohibitions contained in section 4 of such Act (15 U.S.C. 1263) shall apply to such microwave popcorn.

SA 4128. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 2663, 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 program, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, strike lines 4 through 16, and insert the following:

(1) INACCESSIBLE COMPONENTS.—

(A) IN GENERAL.—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.

(B) INACCESSIBILITY PROCEEDING.—Within 2 years after the date of enactment of this Act, the Commission shall promulgate a rule providing guidance with respect to what product components, or classes of components, will be considered to be inaccessible for purposes of subparagraph (A).

(C) APPLICATION PENDING CPSC GUIDANCE.—Until the Commission promulgates a rule pursuant to subparagraph (B), the determination of whether a product component is inaccessible to a child shall be made in accordance with the requirements of subparagraph (A) for considering a component to be inaccessible to a child.

(D) CERTAIN BARRIERS DISQUALIFIED.—For purposes of this paragraph, paint, coatings, or electroplating may not be considered 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.

SA 4129. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

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

''(i) The Commission may—

''(A) designate as a repeat offender, after notice and opportunity for a hearing, any country found by the Commission to have contributed on multiple occasions in the preceding twelve months to the importation of a consumer product in violation of subsection (a) (disregarding de minimus violations thereof) by the intentional, knowing, or reckless failure of its national or local government officials to enforce its own health or safety laws, regulations, or mandatory standards; and

''(B) refer any such country to United States Customs and Border Protection with a recommendation that all or any subset specified by the Commission of that country's consumer product imports be temporarily denied entry for a period of up to six months to allow U.S. inspections and corrective action by the designated country to be undertaken.

''(2) The United States Customs and Border Protection shall for the specified period deny entry to the specified consumer product imports of any country referred to it under paragraph (1)(B).

''(3) The Commission may renew any referral under paragraph (1)(B), and any renewal of any referral made under this paragraph, if it determines, after notice and opportunity for hearing, that the designated country has yet to take appropriate corrective action to enforce its own health or safety laws, regulations, or mandatory standards.

''(4) To ensure compliance with international trade obligations, the Commission shall not make a referral under paragraph (1)(B) or a renewal of a referral under paragraph (3) with respect to a country whose products the United States has agreed to extend national treatment if it finds that the United States, by the intentional, knowing, or reckless failure of its national or local government officials to enforce its own health or safety laws, regulations, or mandatory standards, has on multiple occasions in the preceding twelve months contributed to the sale, offer for sale, manufacture for sale or distribution in commerce of a consumer product that, had it been imported, would have been refused admission under subsection (a) (disregarding de minimus violations thereof).''

SA 4130. Mr. NELSON of Florida (for himself and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

On page 87, strike line 15 and insert the following:

SEC. 34. CONSUMER PRODUCT REGISTRATION FORMS AND STANDARDS FOR DURABLE INFANT OR TODDLER PRODUCTS.

(a) SHORT TITLE.—This section may be cited as the ''Danny Keysar Child Product Safety Notification Act''.

(b) SAFETY STANDARDS.—

(1) IN GENERAL.—The Commission shall—

(A) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler product; and

(B) in accordance with section 553 of title 5, United States Code, promulgate consumer product safety rules that—

(i) are substantially the same as such voluntary standards; or

(ii) are more stringent than such voluntary standards, if the Commission determines

that more stringent standards would further reduce the risk of injury associated with such products.

(2) TIMETABLE FOR RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Commission shall commence the rulemaking required under paragraph (1) and shall promulgate rules for no fewer than 2 categories of durable infant or toddler products every 6 months thereafter, beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories. Thereafter, the Commission shall periodically review and revise the rules set forth under this subsection to ensure that such rules provide the highest level of safety for such products that is feasible.

SA 4131. Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

On page 70, strike lines 2 through 12 and insert the following:

(a) ESTABLISHMENT OF UNITS-OF-MASS-PER-AREA STANDARD.—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.

(b) REPORT ON COORDINATION WITH ENVIRONMENTAL PROTECTION AGENCY ON SAFETY STANDARDS AND ENFORCEMENT.—The Consumer Product Safety Commission, in cooperation with the Environmental Protection Agency, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report—

(1) comparing the safety standards employed by the Commission with respect to lead in children's products and the environmental standards employed by the Environmental Protection Agency with respect to lead under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

(2) making recommendations for—

(A) modifying such standards to make them more consistent and to facilitate interagency coordination; and

(B) coordinating enforcement actions of the Commission and the Environmental Protection Agency with respect to children's products containing lead, including toy jewelry items.

SA 4132. Mr. BROWN (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

On page 103, after line 12, add the following:

SEC. 40. TEMPORARY REFUSAL OF ADMISSION INTO CUSTOMS TERRITORY OF THE UNITED STATES OF CONSUMER PRODUCTS MANUFACTURED BY COMPANIES THAT HAVE VIOLATED CONSUMER PRODUCT SAFETY RULES.

(a) IN GENERAL.—Section 17 (15 U.S.C. 2066), as amended by section 38(e) of this Act, is amended by adding at the end the following:

''(j) TEMPORARY REFUSAL OF ADMISSION.—

''(1) IN GENERAL.—A consumer product offered for importation into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) may be refused admission into such customs territory until the Commission makes a determination of admissibility under paragraph (2)(A) with respect to such product if—

''(A) such product is manufactured by a manufacturer that has, in the previous 18 months—

''(i) violated a consumer product safety rule; or

''(ii) manufactured a product that has been the subject of an order under section 15(d); or

''(B) is offered for importation into such customs territory by a manufacturer, distributor, shipper, or retailer that has, in the previous 18 months—

''(i) offered for importation into such customs territory a product that was refused under subsection (a) with respect to any of paragraphs (1) through (4); or

''(ii) imported into such customs territory a product that has been the subject of an order under section 15(d).

''(2) DETERMINATION OF ADMISSIBILITY.—

''(A) IN GENERAL.—The Commission makes a determination of admissibility under this subparagraph with respect to a consumer product that has been refused under paragraph (1) if the Commission finds that the consumer product is in compliance with all applicable consumer product safety rules.

''(B) REQUEST FOR DETERMINATION OF ADMISSIBILITY.—

''(i) IN GENERAL.—An interested party may submit a request to the Commission for a determination of admissibility under subparagraph (A) with respect to a consumer product that has been refused under paragraph (1).

''(ii) SUPPORTING EVIDENCE.—A request submitted under clause (i) shall be accompanied by evidence that the consumer product is in compliance with all applicable consumer product safety rules.

''(iii) ACTIONS.—Not later than 90 days after submission of a request under clause (i) with respect to a consumer product, the Commission shall take action on such request. Such action may include—

''(I) making a determination of admissibility under subparagraph (A) with respect to such consumer product; or

''(II) requesting information from the manufacturer, distributor, shipper, or retailer of such consumer product.

''(iv) FAILURE TO ACT.—If the Commission does not take action on a request under clause (iii) with respect to a consumer product on or before the date that is 90 days after the date of the submission of such request under clause (i), a determination of admissibility under subparagraph (A) with respect to such consumer product shall be deemed to have been made by the Commission on the 91st day after the date of such submission.

''(3) COMPLIANCE WITH TRADE AGREEMENTS.—The Commission shall ensure that a refusal to admit into the customs territory of the United States a consumer product under this subsection is done in a manner consistent with bilateral, regional, and multilateral trade agreements and the rights and obligations of the United States.''.

(b) RULEMAKING.—

(1) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall issue a notice of proposed rulemaking with respect to the regulations required by paragraph (2).

(2) REGULATIONS.—Not later than 120 days after the date of the publication of notice under paragraph (1), the Consumer Product Safety Commission shall prescribe regulations to carry out the provisions of the amendment made by subsection (a).

(c) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Consumer Product Safety Commission shall consult with the Secretary of Homeland Security in carrying out the provisions of this section and the amendment made by subsection (a).

SA 4133. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2663, 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; which was ordered to lie on the table; as follows:

On page 49, strike lines 8 through 15 and insert the following:

establish additional 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 (including how to mitigate undue adverse economic impacts on small businesses, consistent with principles and processes required under chapter 6 of title 5, United States Code).

NOTICE OF HEARING

SUBCOMMITTEE ON ENERGY

Mr. DORGAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Energy of the Senate Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, March 26, 2008, at 10:30 a.m., in the Missouri Room at Bismarck State College located at 1500 Edwards Avenue, Bismarck, ND 58501.

The purpose of the hearing is to receive testimony on the challenges associated with rapid deployment of large-scale carbon capture and storage technologies.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or

by e-mail to Rosemarie_Calabro@energy.senate.gov

For further information, please contact Allyson Anderson at (202) 224–7143 or Rosemarie Calabro at (202) 224–5039.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 5, 2008, at 9:30 a.m., in open session, In order to receive testimony on the Department of the Air Force in review of the Defense authorization request for fiscal year 2009 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate in order to conduct a business meeting on Wednesday, March 5, 2008, at 11:15 a.m., in room SD366 of the Dirksen Senate Office Building. At this mark-up, the Committee will consider the nomination of J. Gregory Copeland to be General Counsel of the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate in order to conduct a hearing on Wednesday, March 5, 2008, at 3 p.m., In room SD366 of the Dirksen Senate Office Building. At this hearing, the Committee will hear testimony regarding the Impacts of the capability of the United States to maintain a domestic enrichment capability as a result of the recently initialed amendment between the United States and the Russian Federation of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation.

PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 5, 2008, at 9:30 a.m in order to hold a hearing on strengthening national security through smart power.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, March 5, 2008 at 9:30 a.m. in SD–430.

Agenda

S. 1810, Prenatally and Postnatally Diagnosed Conditions Awareness Act; S. 999, Stroke Treatment and Ongoing Prevention Act of 2007; S. 1760, Healthy Start Reauthorization Act of 2007; H.R. 20, Melanie Blocker-Stokes Postpartum Depression Research and Care Act; and S. 1042, Consistency, Accuracy, Responsibility, and Excellence in Medical Imaging and Radiation Therapy Act of 2007.

National Board for Education Sciences, Jonathan Baron, Frank Handy, Sally Shaywitz; National Foundation on the Arts and Humanities, Jamsheed Choksy, Gary Glenn, David Hertz, Marvin Scott, Carol Swain; National Museum and Library Science Board, Julia Bland, Jan Cellucci, William Hagenah, Mark Herring; Truman Scholarship Foundation, Javaid Anwar; Assistant Secretary of Labor ODEP, Neil Romano.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, in order to conduct a hearing entitled ''The Climbing Costs of Heating Homes: Why LIHEAP is Essential'' on Wednesday, March 5, 2008. The hearing will commence at 10:30 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, March 5, 2008, at 9:30 a.m. in order to conduct a hearing entitled ''Census in Peril: Getting the 2010 Decennial Back on Track.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, in order to conduct a hearing entitled ''Oversight of the Federal Bureau of Investigation'' on Wednesday, March 5, 2008 at 10 a.m. in room SD-106 of the Dirksen Senate Office Building.

Witness list

The Honorable Robert S. Mueller, III, Director, Federal Bureau of Investigation, United States Department of Justice, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERSONNEL SUBCOMMITTEE

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Personnel Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 5, 2008, at 2:30 p.m., in open session in order to receive testimony on the findings and recommendations of the Department of Defense Task Force on Mental Health, the Army's Mental Health Advisory Team reports, and Department of Defense and service-wide improvements in mental health resources, including suicide prevention, for servicemembers and their families.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Wednesday, March 5, 2008, at 2:30 p.m. in order to conduct a hearing entitled, ''The State of the U.S. Postal Service One Year After Reform''.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet tomorrow, Wednesday, March 5, 2008 from 10:30 a.m.–12:30 p.m. in Dirksen 562 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that a fellow from my office, Gemma Weiblinger, be granted the privileges of the floor for this speech and the budget presentation next week.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that Bruce Fergusson, a fellow in the office of Senator BAUCUS, be granted the privilege of the floor during consideration of the Consumer Product Safety Commission bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS OF 2007

On Tuesday, February 26, 2008, the Senate passed S. 1200, as amended, as follows:

(The original text of S. 1200 was inadvertently printed.)

S. 1200

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 ''Indian Health Care Improvement Act Amendments of 2008''.

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

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO INDIAN LAWS

Sec. 101. Indian Health Care Improvement Act amended.
Sec. 102. Soboba sanitation facilities.
Sec. 103. Native American Health and Wellness Foundation.
Sec. 104. Modification of term.
Sec. 105. GAO study and report on payments for contract health services.
Sec. 106. GAO study of membership criteria for federally recognized Indian tribes.
Sec. 107. GAO study of tribal justice systems.

TITLE II—IMPROVEMENT OF INDIAN HEALTH CARE PROVIDED UNDER THE SOCIAL SECURITY ACT

Sec. 201. Expansion of payments under Medicare, Medicaid, and SCHIP for all covered services furnished by Indian Health Programs.
Sec. 202. Increased outreach to Indians under Medicaid and SCHIP and improved cooperation in the provision of items and services to Indians under Social Security Act health benefit programs.
Sec. 203. Additional provisions to increase outreach to, and enrollment of, Indians in SCHIP and Medicaid.
Sec. 204. Premiums and cost sharing protections under Medicaid, eligibility determinations under Medicaid and SCHIP, and protection of certain Indian property from Medicaid estate recovery.
Sec. 205. Nondiscrimination in qualifications for payment for services under Federal health care programs.
Sec. 206. Consultation on Medicaid, SCHIP, and other health care programs funded under the Social Security Act involving Indian Health Programs and Urban Indian Organizations.
Sec. 207. Exclusion waiver authority for affected Indian Health Programs and safe harbor transactions under the Social Security Act.
Sec. 208. Rules applicable under Medicaid and SCHIP to managed care entities with respect to Indian enrollees and Indian health care providers and Indian managed care entities.
Sec. 209. Annual report on Indians served by Social Security Act health benefit programs.
Sec. 210. Development of recommendations to improve interstate coordination of Medicaid and SCHIP coverage of Indian children and other children who are outside of their State of residency because of educational or other needs.
Sec. 211. Establishment of National Child Welfare Resource Center for Tribes.
Sec. 212. Adjustment to the Medicare Advantage stabilization fund.
Sec. 213. Moratorium on implementation of changes to case management and targeted case management payment requirements under Medicaid.
Sec. 214. Increased civil money penalties and criminal fines for Medicare fraud and abuse.
Sec. 215. Increased sentences for felonies involving Medicare fraud and abuse.

TITLE III—MISCELLANEOUS

Sec. 301. Resolution of apology to Native Peoples of United States.

TITLE I—AMENDMENTS TO INDIAN LAWS

SEC. 101. INDIAN HEALTH CARE IMPROVEMENT ACT AMENDED.

The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Indian Health Care Improvement Act'.

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

''Sec. 1. Short title; table of contents.
''Sec. 2. Findings.
''Sec. 3. Declaration of national Indian health policy.
''Sec. 4. Definitions.

''TITLE I—INDIAN HEALTH, HUMAN RESOURCES, AND DEVELOPMENT

''Sec. 101. Purpose.
''Sec. 102. Health professions recruitment program for Indians.
''Sec. 103. Health professions preparatory scholarship program for Indians.
''Sec. 104. Indian health professions scholarships.
''Sec. 105. American Indians Into Psychology Program.
''Sec. 106. Scholarship programs for Indian Tribes.
''Sec. 107. Indian Health Service extern programs.
''Sec. 108. Continuing education allowances.
''Sec. 109. Community Health Representative Program.
''Sec. 110. Indian Health Service Loan Repayment Program.
''Sec. 111. Scholarship and Loan Repayment Recovery Fund.
''Sec. 112. Recruitment activities.
''Sec. 113. Indian recruitment and retention program.
''Sec. 114. Advanced training and research.
''Sec. 115. Quentin N. Burdick American Indians Into Nursing Program.
''Sec. 116. Tribal cultural orientation.
''Sec. 117. INMED Program.
''Sec. 118. Health training programs of community colleges.
''Sec. 119. Retention bonus.
''Sec. 120. Nursing residency program.
''Sec. 121. Community Health Aide Program.
''Sec. 122. Tribal Health Program administration.
''Sec. 123. Health professional chronic shortage demonstration programs.
''Sec. 124. National Health Service Corps.
''Sec. 125. Substance abuse counselor educational curricula demonstration programs.
''Sec. 126. Behavioral health training and community education programs.
''Sec. 127. Authorization of appropriations.

''TITLE II—HEALTH SERVICES

''Sec. 201. Indian Health Care Improvement Fund.
''Sec. 202. Catastrophic Health Emergency Fund.
''Sec. 203. Health promotion and disease prevention services.
''Sec. 204. Diabetes prevention, treatment, and control.
''Sec. 205. Shared services for long-term care.
''Sec. 206. Health services research.
''Sec. 207. Mammography and other cancer screening.
''Sec. 208. Patient travel costs.
''Sec. 209. Epidemiology centers.
''Sec. 210. Comprehensive school health education programs.
''Sec. 211. Indian youth program.
''Sec. 212. Prevention, control, and elimination of communicable and infectious diseases.
''Sec. 213. Other authority for provision of services.
''Sec. 214. Indian women's health care.
''Sec. 215. Environmental and nuclear health hazards.
''Sec. 216. Arizona as a contract health service delivery area.
''Sec. 216A. North Dakota and South Dakota as a contract health service delivery area.
''Sec. 217. California contract health services program.
''Sec. 218. California as a contract health service delivery area.
''Sec. 219. Contract health services for the Trenton service area.
''Sec. 220. Programs operated by Indian Tribes and Tribal Organizations.
''Sec. 221. Licensing.
''Sec. 222. Notification of provision of emergency contract health services.
''Sec. 223. Prompt action on payment of claims.
''Sec. 224. Liability for payment.
''Sec. 225. Office of Indian Men's Health.
''Sec. 226. Authorization of appropriations.

''TITLE III—FACILITIES

''Sec. 301. Consultation; construction and renovation of facilities; reports.
''Sec. 302. Sanitation facilities.
''Sec. 303. Preference to Indians and Indian firms.
''Sec. 304. Expenditure of non-Service funds for renovation.
''Sec. 305. Funding for the construction, expansion, and modernization of small ambulatory care facilities.
''Sec. 306. Indian health care delivery demonstration projects.
''Sec. 307. Land transfer.
''Sec. 308. Leases, contracts, and other agreements.
''Sec. 309. Study on loans, loan guarantees, and loan repayment.
''Sec. 310. Tribal leasing.
''Sec. 311. Indian Health Service/tribal facilities joint venture program.
''Sec. 312. Location of facilities.
''Sec. 313. Maintenance and improvement of health care facilities.
''Sec. 314. Tribal management of Federally-owned quarters.
''Sec. 315. Applicability of Buy American Act requirement.
''Sec. 316. Other funding for facilities.
''Sec. 317. Authorization of appropriations.

''TITLE IV—ACCESS TO HEALTH SERVICES

''Sec. 401. Treatment of payments under Social Security Act health benefits programs.
''Sec. 402. Grants to and contracts with the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to facilitate outreach, enrollment, and coverage of Indians under Social Security Act health benefit programs and other health benefits programs.
''Sec. 403. Reimbursement from certain third parties of costs of health services.
''Sec. 404. Crediting of reimbursements.

''Sec. 405. Purchasing health care coverage.
''Sec. 406. Sharing arrangements with Federal agencies.
''Sec. 407. Eligible Indian veteran services.
''Sec. 408. Payor of last resort.
''Sec. 409. Nondiscrimination under Federal health care programs in qualifications for reimbursement for services.
''Sec. 410. Consultation.
''Sec. 411. State Children's Health Insurance Program (SCHIP).
''Sec. 412. Exclusion waiver authority for affected Indian Health Programs and safe harbor transactions under the Social Security Act.
''Sec. 413. Premium and cost sharing protections and eligibility determinations under Medicaid and SCHIP and protection of certain Indian property from Medicaid estate recovery.
''Sec. 414. Treatment under Medicaid and SCHIP managed care.
''Sec. 415. Navajo Nation Medicaid Agency feasibility study.
''Sec. 416. General exceptions.
''Sec. 417. Authorization of appropriations.

''TITLE V—HEALTH SERVICES FOR URBAN INDIANS

''Sec. 501. Purpose.
''Sec. 502. Contracts with, and grants to, Urban Indian Organizations.
''Sec. 503. Contracts and grants for the provision of health care and referral services.
''Sec. 504. Contracts and grants for the determination of unmet health care needs.
''Sec. 505. Evaluations; renewals.
''Sec. 506. Other contract and grant requirements.
''Sec. 507. Reports and records.
''Sec. 508. Limitation on contract authority.
''Sec. 509. Facilities.
''Sec. 510. Division of Urban Indian Health.
''Sec. 511. Grants for alcohol and substance abuse-related services.
''Sec. 512. Treatment of certain demonstration projects.
''Sec. 513. Urban NIAAA transferred programs.
''Sec. 514. Conferring with Urban Indian Organizations.
''Sec. 515. Urban youth treatment center demonstration.
''Sec. 516. Grants for diabetes prevention, treatment, and control.
''Sec. 517. Community Health Representatives.
''Sec. 518. Effective date.
''Sec. 519. Eligibility for services.
''Sec. 520. Authorization of appropriations.

''TITLE VI—ORGANIZATIONAL IMPROVEMENTS

''Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.
''Sec. 602. Automated management information system.
''Sec. 603. Authorization of appropriations.

''TITLE VII—BEHAVIORAL HEALTH PROGRAMS

''Sec. 701. Behavioral health prevention and treatment services.
''Sec. 702. Memoranda of agreement with the Department of the Interior.
''Sec. 703. Comprehensive behavioral health prevention and treatment program.
''Sec. 704. Mental health technician program.
''Sec. 705. Licensing requirement for mental health care workers.
''Sec. 706. Indian women treatment programs.
''Sec. 707. Indian youth program.
''Sec. 708. Indian youth telemental health demonstration project.
''Sec. 709. Inpatient and community-based mental health facilities design, construction, and staffing.
''Sec. 710. Training and community education.
''Sec. 711. Behavioral health program.
''Sec. 712. Fetal alcohol spectrum disorders programs.
''Sec. 713. Child sexual abuse and prevention treatment programs.
''Sec. 714. Domestic and sexual violence prevention and treatment.
''Sec. 715. Testimony by service employees in cases of rape and sexual assault.
''Sec. 716. Behavioral health research.
''Sec. 717. Definitions.
''Sec. 718. Authorization of appropriations.

''TITLE VIII—MISCELLANEOUS

''Sec. 801. Reports.
''Sec. 802. Regulations.
''Sec. 803. Plan of implementation.
''Sec. 804. Availability of funds.
''Sec. 805. Limitation relating to abortion.
''Sec. 806. Eligibility of California Indians.
''Sec. 807. Health services for ineligible persons.
''Sec. 808. Reallocation of base resources.
''Sec. 809. Results of demonstration projects.
''Sec. 810. Provision of services in Montana.
''Sec. 811. Tribal employment.
''Sec. 812. Severability provisions.
''Sec. 813. Establishment of National Bipartisan Commission on Indian Health Care.
''Sec. 814. Confidentiality of medical quality assurance records; qualified immunity for participants.
''Sec. 815. Sense of Congress regarding law enforcement and methamphetamine issues in Indian Country.
''Sec. 816. Tribal Health Program option for cost sharing.
''Sec. 817. Testing for sexually transmitted diseases in cases of sexual violence.
''Sec. 818. Study on tobacco-related disease and disproportionate health effects on tribal populations.
''Sec. 819. Appropriations; availability.
''Sec. 820. GAO report on coordination of services.
''Sec. 821. Authorization of appropriations.

''SEC. 2. FINDINGS.

''Congress makes the following findings:

''(1) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

''(2) A major national goal of the United States is to provide the resources, processes, and structure that will enable Indian Tribes and tribal members to obtain the quantity and quality of health care services and opportunities that will eradicate the health disparities between Indians and the general population of the United States.

''(3) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

''(4) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

''(5) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States.

''SEC. 3. DECLARATION OF NATIONAL INDIAN HEALTH POLICY.

''Congress declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians—

''(1) to assure the highest possible health status for Indians and Urban Indians and to provide all resources necessary to effect that policy;

''(2) to raise the health status of Indians and Urban Indians to at least the levels set forth in the goals contained within the Healthy People 2010 or successor objectives;

''(3) to ensure maximum Indian participation in the direction of health care services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities;

''(4) to increase the proportion of all degrees in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each Service Area is raised to at least the level of that of the general population;

''(5) to require that all actions under this Act shall be carried out with active and meaningful consultation with Indian Tribes and Tribal Organizations, and conference with Urban Indian Organizations, to implement this Act and the national policy of Indian self-determination;

''(6) to ensure that the United States and Indian Tribes work in a government-to-government relationship to ensure quality health care for all tribal members; and

''(7) to provide funding for programs and facilities operated by Indian Tribes and Tribal Organizations in amounts that are not less than the amounts provided to programs and facilities operated directly by the Service.

''SEC. 4. DEFINITIONS.

''For purposes of this Act:

''(1) The term 'accredited and accessible' means on or near a reservation and accredited by a national or regional organization with accrediting authority.

''(2) The term 'Area Office' means an administrative entity, including a program office, within the Service through which services and funds are provided to the Service Units within a defined geographic area.

''(3)(A) The term 'behavioral health' means the blending of substance (alcohol, drugs, inhalants, and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services.

''(B) The term 'behavioral health' includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multidisciplinary approach.

''(4) The term 'California Indians' means those Indians who are eligible for health services of the Service pursuant to section 806.

''(5) The term 'community college' means—

''(A) a tribal college or university, or

''(B) a junior or community college.

''(6) The term 'contract health service' means health services provided at the expense of the Service or a Tribal Health Program by public or private medical providers or hospitals, other than the Service Unit or the Tribal Health Program at whose expense the services are provided.

''(7) The term 'Department' means, unless otherwise designated, the Department of Health and Human Services.

''(8) The term 'Director' means the Director of the Service.

''(9) The term 'disease prevention' means the reduction, limitation, and prevention of disease and its complications and reduction in the consequences of disease, including—

''(A) controlling—

''(i) the development of diabetes;

''(ii) high blood pressure;

''(iii) infectious agents;

''(iv) injuries;

''(v) occupational hazards and disabilities;

''(vi) sexually transmittable diseases; and

''(vii) toxic agents; and

''(B) providing—

''(i) fluoridation of water; and

''(ii) immunizations.

''(10) The term 'health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, allied health professions, and any other health profession.

''(11) The term 'health promotion' means—

''(A) fostering social, economic, environmental, and personal factors conducive to health, including raising public awareness about health matters and enabling the people to cope with health problems by increasing their knowledge and providing them with valid information;

''(B) encouraging adequate and appropriate diet, exercise, and sleep;

''(C) promoting education and work in conformity with physical and mental capacity;

''(D) making available safe water and sanitary facilities;

''(E) improving the physical, economic, cultural, psychological, and social environment;

''(F) promoting culturally competent care; and

''(G) providing adequate and appropriate programs, which may include—

''(i) abuse prevention (mental and physical);

''(ii) community health;

''(iii) community safety;

''(iv) consumer health education;

''(v) diet and nutrition;

''(vi) immunization and other prevention of communicable diseases, including HIV/AIDS;

''(vii) environmental health;

''(viii) exercise and physical fitness;

''(ix) avoidance of fetal alcohol spectrum disorders;

''(x) first aid and CPR education;

''(xi) human growth and development;

''(xii) injury prevention and personal safety;

''(xiii) behavioral health;

''(xiv) monitoring of disease indicators between health care provider visits, through appropriate means, including Internet-based health care management systems;

''(xv) personal health and wellness practices;

''(xvi) personal capacity building;

''(xvii) prenatal, pregnancy, and infant care;

''(xviii) psychological well-being;

''(xix) family planning;

''(xx) safe and adequate water;

''(xxi) healthy work environments;

''(xxii) elimination, reduction, and prevention of contaminants that create unhealthy household conditions (including mold and other allergens);

''(xxiii) stress control;

''(xxiv) substance abuse;

''(xxv) sanitary facilities;

''(xxvi) sudden infant death syndrome prevention;

''(xxvii) tobacco use cessation and reduction;

''(xxviii) violence prevention; and

''(xxix) such other activities identified by the Service, a Tribal Health Program, or an Urban Indian Organization, to promote achievement of any of the objectives described in section 3(2).

''(12) The term 'Indian', unless otherwise designated, means any person who is a member of an Indian Tribe or is eligible for health services under section 806, except that, for the purpose of sections 102 and 103, the term also means any individual who—

''(A)(i) irrespective of whether the individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside; or

''(ii) is a descendant, in the first or second degree, of any such member;

''(B) is an Eskimo or Aleut or other Alaska Native;

''(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

''(D) is determined to be an Indian under regulations promulgated by the Secretary.

''(13) The term 'Indian Health Program' means—

''(A) any health program administered directly by the Service;

''(B) any Tribal Health Program; or

''(C) any Indian Tribe or Tribal Organization to which the Secretary provides funding pursuant to section 23 of the Act of June 25, 1910 (25 U.S.C. 47) (commonly known as the 'Buy Indian Act').

''(14) The term 'Indian Tribe' has the meaning given the term in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(15) The term 'junior or community college' has the meaning given the term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

''(16) The term 'reservation' means any federally recognized Indian Tribe's reservation, Pueblo, or colony, including former reservations in Oklahoma, Indian allotments, and Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(17) The term 'Secretary', unless otherwise designated, means the Secretary of Health and Human Services.

''(18) The term 'Service' means the Indian Health Service.

''(19) The term 'Service Area' means the geographical area served by each Area Office.

''(20) The term 'Service Unit' means an administrative entity of the Service, or a Tribal Health Program through which services are provided, directly or by contract, to eligible Indians within a defined geographic area.

''(21) The term 'telehealth' has the meaning given the term in section 330K(a) of the Public Health Service Act (42 U.S.C. 254c–16(a)).

''(22) The term 'telemedicine' means a telecommunications link to an end user through the use of eligible equipment that electronically links health professionals or patients and health professionals at separate sites in order to exchange health care information in audio, video, graphic, or other format for the purpose of providing improved health care services.

''(23) The term 'tribal college or university' has the meaning given the term in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).

''(24) The term 'Tribal Health Program' means an Indian Tribe or Tribal Organization that operates any health program, service, function, activity, or facility funded, in whole or part, by the Service through, or provided for in, a contract or compact with the Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(25) The term 'Tribal Organization' has the meaning given the term in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(26) The term 'Urban Center' means any community which has a sufficient Urban Indian population with unmet health needs to warrant assistance under title V of this Act, as determined by the Secretary.

''(27) The term 'Urban Indian' means any individual who resides in an Urban Center and who meets 1 or more of the following criteria:

''(A) Irrespective of whether the individual lives on or near a reservation, the individual is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those tribes, bands, or groups that are recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member.

''(B) The individual is an Eskimo, Aleut, or other Alaska Native.

''(C) The individual is considered by the Secretary of the Interior to be an Indian for any purpose.

''(D) The individual is determined to be an Indian under regulations promulgated by the Secretary.

''(28) The term 'Urban Indian Organization' means a nonprofit corporate body that (A) is situated in an Urban Center; (B) is governed by an Urban Indian-controlled board of directors; (C) provides for the participation of all interested Indian groups and individuals; and (D) is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

''TITLE I—INDIAN HEALTH, HUMAN RESOURCES, AND DEVELOPMENT

''SEC. 101. PURPOSE.

''The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Indian Health Programs and Urban Indian Organizations involved in the provision of health services to Indians.

''SEC. 102. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities, Tribal Health Programs, or Urban Indian Organizations to assist such entities in meeting the costs of—

''(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

''(A) to enroll in courses of study in such health professions; or

''(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

''(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undertaking training necessary to qualify them to enroll in any such course of study; or

''(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1).

''(b) GRANTS.—

''(1) APPLICATION.—The Secretary shall not make a grant under this section unless an

application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe pursuant to this Act. The Secretary shall give a preference to applications submitted by Tribal Health Programs or Urban Indian Organizations.

''(2) AMOUNT OF GRANTS; PAYMENT.—The amount of a grant under this section shall be determined by the Secretary. Payments pursuant to this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations issued pursuant to this Act. To the extent not otherwise prohibited by law, grants shall be for 3 years, as provided in regulations issued pursuant to this Act.

''SEC. 103. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.

''(a) SCHOLARSHIPS AUTHORIZED.—The Secretary, acting through the Service, shall provide scholarship grants to Indians who—

''(1) have successfully completed their high school education or high school equivalency; and

''(2) have demonstrated the potential to successfully complete courses of study in the health professions.

''(b) PURPOSES.—Scholarship grants provided pursuant to this section shall be for the following purposes:

''(1) Compensatory preprofessional education of any recipient, such scholarship not to exceed 2 years on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued under this Act).

''(2) Pregraduate education of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years. An extension of up to 2 years (or the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued pursuant to this Act) may be approved.

''(c) OTHER CONDITIONS.—Scholarships under this section—

''(1) may cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school;

''(2) shall not be denied solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution; and

''(3) shall not be denied solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.

''SEC. 104. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

''(a) IN GENERAL.—

''(1) AUTHORITY.—The Secretary, acting through the Service, shall make scholarship grants to Indians who are enrolled full or part time in accredited schools pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Services Act (42 U.S.C. 254l), except as provided in subsection (b) of this section.

''(2) DETERMINATIONS BY SECRETARY.—The Secretary, acting through the Service, shall determine—

''(A) who shall receive scholarship grants under subsection (a); and

''(B) the distribution of the scholarships among health professions on the basis of the relative needs of Indians for additional service in the health professions.

''(3) CERTAIN DELEGATION NOT ALLOWED.—The administration of this section shall be a responsibility of the Director and shall not be delegated in a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(b) ACTIVE DUTY SERVICE OBLIGATION.—

''(1) OBLIGATION MET.—The active duty service obligation under a written contract with the Secretary under this section that an Indian has entered into shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice equal to 1 year for each school year for which the participant receives a scholarship award under this part, or 2 years, whichever is greater, by service in 1 or more of the following:

''(A) In an Indian Health Program.

''(B) In a program assisted under title V of this Act.

''(C) In the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''(D) In a teaching capacity in a tribal college or university nursing program (or a related health profession program) if, as determined by the Secretary, the health service provided to Indians would not decrease.

''(2) OBLIGATION DEFERRED.—At the request of any individual who has entered into a contract referred to in paragraph (1) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

''(A) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service under this subsection.

''(B) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

''(C) The active duty service obligation will be served in the health profession of that individual in a manner consistent with paragraph (1).

''(D) A recipient of a scholarship under this section may, at the election of the recipient, meet the active duty service obligation described in paragraph (1) by service in a program specified under that paragraph that—

''(i) is located on the reservation of the Indian Tribe in which the recipient is enrolled; or

''(ii) serves the Indian Tribe in which the recipient is enrolled.

''(3) PRIORITY WHEN MAKING ASSIGNMENTS.—Subject to paragraph (2), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in paragraph (1), shall give priority to assigning individuals to service in those programs specified in paragraph (1) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(c) PART-TIME STUDENTS.—In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

''(1) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

''(2) the period of obligated service described in subsection (b)(1) shall be equal to the greater of—

''(A) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

''(B) 2 years; and

''(3) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254l(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

''(d) BREACH OF CONTRACT.—

''(1) SPECIFIED BREACHES.—An individual shall be liable to the United States for the amount which has been paid to the individual, or on behalf of the individual, under a contract entered into with the Secretary under this section on or after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008 if that individual—

''(A) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(B) is dismissed from such educational institution for disciplinary reasons;

''(C) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

''(D) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract.

''(2) OTHER BREACHES.—If for any reason not specified in paragraph (1) an individual breaches a written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(3) CANCELLATION UPON DEATH OF RECIPIENT.—Upon the death of an individual who receives an Indian Health Scholarship, any outstanding obligation of that individual for service or payment that relates to that scholarship shall be canceled.

''(4) WAIVERS AND SUSPENSIONS.—

''(A) IN GENERAL.—The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

''(i) it is not possible for the recipient to meet that obligation or make that payment;

''(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

''(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

''(B) FACTORS FOR CONSIDERATION.—Before waiving or suspending an obligation of service or payment under subparagraph (A), the Secretary shall consult with the affected Area Office, Indian Tribes, or Tribal Organizations, or confer with the affected Urban Indian Organizations, and may take into consideration whether the obligation may be satisfied in a teaching capacity at a tribal college or university nursing program under subsection (b)(1)(D).

''(5) EXTREME HARDSHIP.—Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

''(6) BANKRUPTCY.—Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

''SEC. 105. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

''(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, shall make grants of not more than $300,000 to each of 9 colleges and universities for the purpose of developing and maintaining Indian psychology career recruitment programs as a means of encouraging Indians to enter the behavioral health field. These programs shall be located at various locations throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time.

''(b) QUENTIN N. BURDICK PROGRAM GRANT.—The Secretary shall provide a grant authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 117(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115(e), and existing university research and communications networks.

''(c) REGULATIONS.—The Secretary shall issue regulations pursuant to this Act for the competitive awarding of grants provided under this section.

''(d) CONDITIONS OF GRANT.—Applicants under this section shall agree to provide a program which, at a minimum—

''(1) provides outreach and recruitment for health professions to Indian communities including elementary, secondary, and accredited and accessible community colleges that will be served by the program;

''(2) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

''(3) provides summer enrichment programs to expose Indian students to the various fields of psychology through research, clinical, and experimental activities;

''(4) provides stipends to undergraduate and graduate students to pursue a career in psychology;

''(5) develops affiliation agreements with tribal colleges and universities, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students;

''(6) to the maximum extent feasible, uses existing university tutoring, counseling, and student support services; and

''(7) to the maximum extent feasible, employs qualified Indians in the program.

''(e) ACTIVE DUTY SERVICE REQUIREMENT.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (d)(4) that is funded under this section. Such obligation shall be met by service—

''(1) in an Indian Health Program;

''(2) in a program assisted under title V of this Act; or

''(3) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,700,000 for each of fiscal years 2008 through 2017.

''SEC. 106. SCHOLARSHIP PROGRAMS FOR INDIAN TRIBES.

''(a) IN GENERAL.—

''(1) GRANTS AUTHORIZED.—The Secretary, acting through the Service, shall make grants to Tribal Health Programs for the purpose of providing scholarships for Indians to serve as health professionals in Indian communities.

''(2) AMOUNT.—Amounts available under paragraph (1) for any fiscal year shall not exceed 5 percent of the amounts available for each fiscal year for Indian Health Scholarships under section 104.

''(3) APPLICATION.—An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as consistent with this section.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—A Tribal Health Program receiving a grant under subsection (a) shall provide scholarships to Indians in accordance with the requirements of this section.

''(2) COSTS.—With respect to costs of providing any scholarship pursuant to subsection (a)—

''(A) 80 percent of the costs of the scholarship shall be paid from the funds made available pursuant to subsection (a)(1) provided to the Tribal Health Program; and

''(B) 20 percent of such costs may be paid from any other source of funds.

''(c) COURSE OF STUDY.—A Tribal Health Program shall provide scholarships under this section only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in 1 of the health professions contemplated by this Act.

''(d) CONTRACT.—

''(1) IN GENERAL.—In providing scholarships under subsection (b), the Secretary and the Tribal Health Program shall enter into a written contract with each recipient of such scholarship.

''(2) REQUIREMENTS.—Such contract shall—

''(A) obligate such recipient to provide service in an Indian Health Program or Urban Indian Organization, in the same Service Area where the Tribal Health Program providing the scholarship is located, for—

''(i) a number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

''(ii) such greater period of time as the recipient and the Tribal Health Program may agree;

''(B) provide that the amount of the scholarship—

''(i) may only be expended for—

''(I) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

''(II) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), with such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and not to exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

''(ii) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in clause (i);

''(C) require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

''(D) require the recipient of such scholarship to meet the educational and licensure requirements appropriate to each health profession.

''(3) SERVICE IN OTHER SERVICE AREAS.—The contract may allow the recipient to serve in another Service Area, provided the Tribal Health Program and Secretary approve and services are not diminished to Indians in the Service Area where the Tribal Health Program providing the scholarship is located.

''(e) BREACH OF CONTRACT.—

''(1) SPECIFIC BREACHES.—An individual who has entered into a written contract with the Secretary and a Tribal Health Program under subsection (d) shall be liable to the United States for the Federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract if that individual—

''(A) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level as determined by the educational institution under regulations of the Secretary);

''(B) is dismissed from such educational institution for disciplinary reasons;

''(C) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

''(D) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract.

''(2) OTHER BREACHES.—If for any reason not specified in paragraph (1), an individual breaches a written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(3) CANCELLATION UPON DEATH OF RECIPIENT.—Upon the death of an individual who receives an Indian Health Scholarship, any outstanding obligation of that individual for service or payment that relates to that scholarship shall be canceled.

''(4) INFORMATION.—The Secretary may carry out this subsection on the basis of information received from Tribal Health Programs involved or on the basis of information collected through such other means as the Secretary deems appropriate.

''(f) RELATION TO SOCIAL SECURITY ACT.—The recipient of a scholarship under this section shall agree, in providing health care pursuant to the requirements herein—

''(1) not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to a program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX or title XXI of such Act; and

''(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for

all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX, or the State child health plan under title XXI, of such Act to provide service to individuals entitled to medical assistance or child health assistance, respectively, under the plan.

''(g) CONTINUANCE OF FUNDING.—The Secretary shall make payments under this section to a Tribal Health Program for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Tribal Health Program has not complied with the requirements of this section.

''SEC. 107. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

''(a) EMPLOYMENT PREFERENCE.—Any individual who receives a scholarship pursuant to section 104 or 106 shall be given preference for employment in the Service, or may be employed by a Tribal Health Program or an Urban Indian Organization, or other agencies of the Department as available, during any nonacademic period of the year.

''(b) NOT COUNTED TOWARD ACTIVE DUTY SERVICE OBLIGATION.—Periods of employment pursuant to this subsection shall not be counted in determining fulfillment of the service obligation incurred as a condition of the scholarship.

''(c) TIMING; LENGTH OF EMPLOYMENT.—Any individual enrolled in a program, including a high school program, authorized under section 102(a) may be employed by the Service or by a Tribal Health Program or an Urban Indian Organization during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

''(d) NONAPPLICABILITY OF COMPETITIVE PERSONNEL SYSTEM.—Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department.

''SEC. 108. CONTINUING EDUCATION ALLOWANCES.

''In order to encourage scholarship and stipend recipients under sections 104, 105, 106, and 115 and health professionals, including community health representatives and emergency medical technicians, to join or continue in an Indian Health Program, in the case of nurses, to obtain training and certification as sexual assault nurse examiners, and to provide their services in the rural and remote areas where a significant portion of Indians reside, the Secretary, acting through the Service, may—

''(1) provide programs or allowances to transition into an Indian Health Program, including licensing, board or certification examination assistance, and technical assistance in fulfilling service obligations under sections 104, 105, 106, and 115; and

''(2) provide programs or allowances to health professionals employed in an Indian Health Program to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation, management, leadership, refresher training courses, and, in the case of nurses, additional clinical sexual assault nurse examiner experience to maintain competency or certification.

''SEC. 109. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall maintain a Community Health Representative Program under which Indian Health Programs—

''(1) provide for the training of Indians as community health representatives; and

''(2) use such community health representatives in the provision of health care, health promotion, and disease prevention services to Indian communities.

''(b) DUTIES.—The Community Health Representative Program of the Service, shall—

''(1) provide a high standard of training for community health representatives to ensure that the community health representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by the Program;

''(2) in order to provide such training, develop and maintain a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

''(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty;

''(3) maintain a system which identifies the needs of community health representatives for continuing education in health care, health promotion, and disease prevention and develop programs that meet the needs for continuing education;

''(4) maintain a system that provides close supervision of Community Health Representatives;

''(5) maintain a system under which the work of Community Health Representatives is reviewed and evaluated; and

''(6) promote traditional health care practices of the Indian Tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

''SEC. 110. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish and administer a program to be known as the Service Loan Repayment Program (hereinafter referred to as the 'Loan Repayment Program') in order to ensure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian Health Programs and Urban Indian Organizations.

''(b) ELIGIBLE INDIVIDUALS.—To be eligible to participate in the Loan Repayment Program, an individual must—

''(1)(A) be enrolled—

''(i) in a course of study or program in an accredited educational institution (as determined by the Secretary under section 338B(b)(1)(c)(i) of the Public Health Service Act (42 U.S.C. 2541–1(b)(1)(c)(i))) and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

''(ii) in an approved graduate training program in a health profession; or

''(B) have—

''(i) a degree in a health profession; and

''(ii) a license to practice a health profession;

''(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

''(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

''(C) meet the professional standards for civil service employment in the Service; or

''(D) be employed in an Indian Health Program or Urban Indian Organization without a service obligation; and

''(3) submit to the Secretary an application for a contract described in subsection (e).

''(c) APPLICATION.—

''(1) INFORMATION TO BE INCLUDED WITH FORMS.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Service to enable the individual to make a decision on an informed basis.

''(2) CLEAR LANGUAGE.—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

''(3) TIMELY AVAILABILITY OF FORMS.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

''(d) PRIORITIES.—

''(1) LIST.—Consistent with subsection (k), the Secretary shall annually—

''(A) identify the positions in each Indian Health Program or Urban Indian Organization for which there is a need or a vacancy; and

''(B) rank those positions in order of priority.

''(2) APPROVALS.—Notwithstanding the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall—

''(A) give first priority to applications made by individual Indians; and

''(B) after making determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to—

''(i) individuals recruited through the efforts of an Indian Health Program or Urban Indian Organization; and

''(ii) other individuals based on the priority rankings under paragraph (1).

''(e) RECIPIENT CONTRACTS.—

''(1) CONTRACT REQUIRED.—An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in paragraph (2).

''(2) CONTENTS OF CONTRACT.—The written contract referred to in this section between the Secretary and an individual shall contain—

''(A) an agreement under which—

''(i) subject to subparagraph (C), the Secretary agrees—

''(I) to pay loans on behalf of the individual in accordance with the provisions of this section; and

''(II) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a Tribal Health Program or Urban Indian Organization as provided in clause (ii)(III); and

''(ii) subject to subparagraph (C), the individual agrees—

''(I) to accept loan payments on behalf of the individual;

''(II) in the case of an individual described in subsection (b)(1)—

''(aa) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

''(bb) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training); and

''(III) to serve for a time period (hereinafter in this section referred to as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian Health Program or Urban Indian Organization to which the individual may be assigned by the Secretary;

''(B) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under subparagraph (A)(ii)(III);

''(C) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

''(D) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

''(E) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

''(f) DEADLINE FOR DECISION ON APPLICATION.—The Secretary shall provide written notice to an individual within 21 days on—

''(1) the Secretary's approving, under subsection (e)(1), of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

''(2) the Secretary's disapproving an individual's participation in such Program.

''(g) PAYMENTS.—

''(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

''(A) tuition expenses;

''(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

''(C) reasonable living expenses as determined by the Secretary.

''(2) AMOUNT.—For each year of obligated service that an individual contracts to serve under subsection (e), the Secretary may pay up to $35,000 or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act, whichever is more, on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

''(A) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

''(B) provides an incentive to serve in Indian Health Programs and Urban Indian Organizations with the greatest shortages of health professionals; and

''(C) provides an incentive with respect to the health professional involved remaining in an Indian Health Program or Urban Indian Organization with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

''(3) TIMING.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

''(4) REIMBURSEMENTS FOR TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from a payment under paragraph (2) on behalf of an individual, the Secretary—

''(A) in addition to such payments, may make payments to the individual in an amount equal to not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

''(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

''(5) PAYMENT SCHEDULE.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

''(h) EMPLOYMENT CEILING.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section shall not be counted against any employment ceiling affecting the Department while those individuals are undergoing academic training.

''(i) RECRUITMENT.—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other manpower programs of the Service at educational institutions training health professionals or specialists identified in subsection (a).

''(j) APPLICABILITY OF LAW.—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

''(k) ASSIGNMENT OF INDIVIDUALS.—The Secretary, in assigning individuals to serve in Indian Health Programs or Urban Indian Organizations pursuant to contracts entered into under this section, shall—

''(1) ensure that the staffing needs of Tribal Health Programs and Urban Indian Organizations receive consideration on an equal basis with programs that are administered directly by the Service; and

''(2) give priority to assigning individuals to Indian Health Programs and Urban Indian Organizations that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(l) BREACH OF CONTRACT.—

''(1) SPECIFIC BREACHES.—An individual who has entered into a written contract with the Secretary under this section and has not received a waiver under subsection (m) shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract if that individual—

''(A) is enrolled in the final year of a course of study and—

''(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) voluntarily terminates such enrollment; or

''(iii) is dismissed from such educational institution before completion of such course of study; or

''(B) is enrolled in a graduate training program and fails to complete such training program.

''(2) OTHER BREACHES; FORMULA FOR AMOUNT OWED.—If, for any reason not specified in paragraph (1), an individual breaches his or her written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (e)(2), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula: $A=3Z(t-s/t)$ in which—

''(A) 'A' is the amount the United States is entitled to recover;

''(B) 'Z' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury;

''(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

''(D) 's' is the number of months of such period served by such individual in accordance with this section.

''(3) DEDUCTIONS IN MEDICARE PAYMENTS.—Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.

''(4) TIME PERIOD FOR REPAYMENT.—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as shall be specified by the Secretary.

''(5) RECOVERY OF DELINQUENCY.—

''(A) IN GENERAL.—If damages described in paragraph (4) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

''(i) use collection agencies contracted with by the Administrator of General Services; or

''(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

''(B) REPORT.—Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

''(m) WAIVER OR SUSPENSION OF OBLIGATION.—

''(1) IN GENERAL.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under

the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

''(2) CANCELED UPON DEATH.—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

''(3) HARDSHIP WAIVER.—The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

''(4) BANKRUPTCY.—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

''(n) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be submitted to Congress under section 801, a report concerning the previous fiscal year which sets forth by Service Area the following:

''(1) A list of the health professional positions maintained by Indian Health Programs and Urban Indian Organizations for which recruitment or retention is difficult.

''(2) The number of Loan Repayment Program applications filed with respect to each type of health profession.

''(3) The number of contracts described in subsection (e) that are entered into with respect to each health profession.

''(4) The amount of loan payments made under this section, in total and by health profession.

''(5) The number of scholarships that are provided under sections 104 and 106 with respect to each health profession.

''(6) The amount of scholarship grants provided under section 104 and 106, in total and by health profession.

''(7) The number of providers of health care that will be needed by Indian Health Programs and Urban Indian Organizations, by location and profession, during the 3 fiscal years beginning after the date the report is filed.

''(8) The measures the Secretary plans to take to fill the health professional positions maintained by Indian Health Programs or Urban Indian Organizations for which recruitment or retention is difficult.

''SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'LRRF'). The LRRF shall consist of such amounts as may be collected from individuals under section 104(d), section 106(e), and section 110(l) for breach of contract, such funds as may be appropriated to the LRRF, and interest earned on amounts in the LRRF. All amounts collected, appropriated, or earned relative to the LRRF shall remain available until expended.

''(b) USE OF FUNDS.—

''(1) BY SECRETARY.—Amounts in the LRRF may be expended by the Secretary, acting through the Service, to make payments to an Indian Health Program—

''(A) to which a scholarship recipient under section 104 and 106 or a loan repayment program participant under section 110 has been assigned to meet the obligated service requirements pursuant to such sections; and

''(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 104, 106, or section 110.

''(2) BY TRIBAL HEALTH PROGRAMS.—A Tribal Health Program receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or recruit and employ, directly or by contract, health professionals to provide health care services.

''(c) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest such amounts of the LRRF as the Secretary of Health and Human Services determines are not required to meet current withdrawals from the LRRF. Such investments may be made only in interest bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(d) SALE OF OBLIGATIONS.—Any obligation acquired by the LRRF may be sold by the Secretary of the Treasury at the market price.

''(e) EFFECTIVE DATE.—This section takes effect on October 1, 2009.

''SEC. 112. RECRUITMENT ACTIVITIES.

''(a) REIMBURSEMENT FOR TRAVEL.—The Secretary, acting through the Service, may reimburse health professionals seeking positions with Indian Health Programs or Urban Indian Organizations, including individuals considering entering into a contract under section 110 and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

''(b) RECRUITMENT PERSONNEL.—The Secretary, acting through the Service, shall assign 1 individual in each Area Office to be responsible on a full-time basis for recruitment activities.

''SEC. 113. INDIAN RECRUITMENT AND RETENTION PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall fund, on a competitive basis, innovative demonstration projects for a period not to exceed 3 years to enable Tribal Health Programs and Urban Indian Organizations to recruit, place, and retain health professionals to meet their staffing needs.

''(b) ELIGIBLE ENTITIES; APPLICATION.—Any Tribal Health Program or Urban Indian Organization may submit an application for funding of a project pursuant to this section.

''SEC. 114. ADVANCED TRAINING AND RESEARCH.

''(a) DEMONSTRATION PROGRAM.—The Secretary, acting through the Service, shall establish a demonstration project to enable health professionals who have worked in an Indian Health Program or Urban Indian Organization for a substantial period of time to pursue advanced training or research areas of study for which the Secretary determines a need exists.

''(b) SERVICE OBLIGATION.—An individual who participates in a program under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian Health Program or Urban Indian Organization for a period of obligated service equal to at least the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the program after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(c) EQUAL OPPORTUNITY FOR PARTICIPATION.—Health professionals from Tribal Health Programs and Urban Indian Organizations shall be given an equal opportunity to participate in the program under subsection (a).

''SEC. 115. QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.

''(a) GRANTS AUTHORIZED.—For the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians, the Secretary, acting through the Service, shall provide grants to the following:

''(1) Public or private schools of nursing.

''(2) Tribal colleges or universities.

''(3) Nurse midwife programs and advanced practice nurse programs that are provided by any tribal college or university accredited nursing program, or in the absence of such, any other public or private institutions.

''(b) USE OF GRANTS.—Grants provided under subsection (a) may be used for 1 or more of the following:

''(1) To recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses.

''(2) To provide scholarships to Indians enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses.

''(3) To provide a program that encourages nurses, nurse midwives, and advanced practice nurses to provide, or continue to provide, health care services to Indians.

''(4) To provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses.

''(5) To provide any program that is designed to achieve the purpose described in subsection (a).

''(c) APPLICATIONS.—Each application for a grant under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

''(d) PREFERENCES FOR GRANT RECIPIENTS.—In providing grants under subsection (a), the Secretary shall extend a preference to the following:

''(1) Programs that provide a preference to Indians.

''(2) Programs that train nurse midwives or advanced practice nurses.

''(3) Programs that are interdisciplinary.

''(4) Programs that are conducted in cooperation with a program for gifted and talented Indian students.

''(5) Programs conducted by tribal colleges and universities.

''(e) QUENTIN N. BURDICK PROGRAM GRANT.—The Secretary shall provide 1 of the grants authorized under subsection (a) to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 117(b) and the Quentin N. Burdick American Indians Into Psychology Program established under section 105(b).

''(f) ACTIVE DUTY SERVICE OBLIGATION.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each

individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded by a grant provided under subsection (a). Such obligation shall be met by service—

''(1) in the Service;

''(2) in a program of an Indian Tribe or Tribal Organization conducted under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) (including programs under agreements with the Bureau of Indian Affairs);

''(3) in a program assisted under title V of this Act;

''(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health shortage area and addresses the health care needs of a substantial number of Indians; or

''(5) in a teaching capacity in a tribal college or university nursing program (or a related health profession program) if, as determined by the Secretary, health services provided to Indians would not decrease.

''SEC. 116. TRIBAL CULTURAL ORIENTATION.

''(a) CULTURAL EDUCATION OF EMPLOYEES.—The Secretary, acting through the Service, shall require that appropriate employees of the Service who serve Indian Tribes in each Service Area receive educational instruction in the history and culture of such Indian Tribes and their relationship to the Service.

''(b) PROGRAM.—In carrying out subsection (a), the Secretary shall establish a program which shall, to the extent feasible—

''(1) be developed in consultation with the affected Indian Tribes, Tribal Organizations, and Urban Indian Organizations;

''(2) be carried out through tribal colleges or universities;

''(3) include instruction in American Indian studies; and

''(4) describe the use and place of traditional health care practices of the Indian Tribes in the Service Area.

''SEC. 117. INMED PROGRAM.

''(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, is authorized to provide grants to colleges and universities for the purpose of maintaining and expanding the Indian health careers recruitment program known as the 'Indians Into Medicine Program' (hereinafter in this section referred to as 'INMED') as a means of encouraging Indians to enter the health professions.

''(b) QUENTIN N. BURDICK GRANT.—The Secretary shall provide 1 of the grants authorized under subsection (a) to maintain the INMED program at the University of North Dakota, to be known as the 'Quentin N. Burdick Indian Health Programs', unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 105(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115.

''(c) REGULATIONS.—The Secretary, pursuant to this Act, shall develop regulations to govern grants pursuant to this section.

''(d) REQUIREMENTS.—Applicants for grants provided under this section shall agree to provide a program which—

''(1) provides outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on reservations which will be served by the program;

''(2) incorporates a program advisory board comprised of representatives from the Indian Tribes and Indian communities which will be served by the program;

''(3) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions;

''(4) provides tutoring, counseling, and support to students who are enrolled in a health career program of study at the respective college or university; and

''(5) to the maximum extent feasible, employs qualified Indians in the program.

''SEC. 118. HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES.

''(a) GRANTS TO ESTABLISH PROGRAMS.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such community colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on or near a reservation or in an Indian Health Program.

''(2) AMOUNT OF GRANTS.—The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $250,000.

''(b) GRANTS FOR MAINTENANCE AND RECRUITING.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

''(2) REQUIREMENTS.—Grants may only be made under this section to a community college which—

''(A) is accredited;

''(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

''(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

''(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs that train health professionals; and

''(ii) stipulate certifications necessary to approve internship and field placement opportunities at Indian Health Programs;

''(D) has a qualified staff which has the appropriate certifications;

''(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1); and

''(F) agrees to provide for Indian preference for applicants for programs under this section.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

''(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs; and

''(2) providing technical assistance and support to such colleges.

''(d) ADVANCED TRAINING.—

''(1) REQUIRED.—Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

''(A) has already received a degree or diploma in such health profession; and

''(B) provides clinical services on or near a reservation or for an Indian Health Program.

''(2) MAY BE OFFERED AT ALTERNATE SITE.—Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

''(e) PRIORITY.—Where the requirements of subsection (b) are met, grant award priority shall be provided to tribal colleges and universities in Service Areas where they exist.

''SEC. 119. RETENTION BONUS.

''(a) BONUS AUTHORIZED.—The Secretary may pay a retention bonus to any health professional employed by, or assigned to, and serving in, an Indian Health Program or Urban Indian Organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

''(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult;

''(2) the Secretary determines is needed by Indian Health Programs and Urban Indian Organizations;

''(3) has—

''(A) completed 2 years of employment with an Indian Health Program or Urban Indian Organization; or

''(B) completed any service obligations incurred as a requirement of—

''(i) any Federal scholarship program; or

''(ii) any Federal education loan repayment program; and

''(4) enters into an agreement with an Indian Health Program or Urban Indian Organization for continued employment for a period of not less than 1 year.

''(b) RATES.—The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

''(c) DEFAULT OF RETENTION AGREEMENT.—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(l)(2)(B).

''(d) OTHER RETENTION BONUS.—The Secretary may pay a retention bonus to any health professional employed by a Tribal Health Program if such health professional is serving in a position which the Secretary determines is—

''(1) a position for which recruitment or retention is difficult; and

''(2) necessary for providing health care services to Indians.

''SEC. 120. NURSING RESIDENCY PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Service, shall establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian Health Program or Urban Indian Organization, and have done so for a period of not less than 1 year, to pursue advanced training. Such program shall include a combination of education and work study in an Indian Health Program or Urban Indian Organization leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse), a bachelor's degree (in the case of a registered nurse), or advanced degrees or certifications in nursing and public health.

''(b) SERVICE OBLIGATION.—An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation

to serve in an Indian Health Program or Urban Indian Organization for a period of obligated service equal to 1 year for every year that nonprofessional employee (licensed practical nurses, licensed vocational nurses, nursing assistants, and various health care technicals), or 2 years for every year that professional nurse (associate degree and bachelor-prepared registered nurses), participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

"SEC. 121. COMMUNITY HEALTH AIDE PROGRAM.

''(a) GENERAL PURPOSES OF PROGRAM.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall develop and operate a Community Health Aide Program in Alaska under which the Service—

''(1) provides for the training of Alaska Natives as health aides or community health practitioners;

''(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

''(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

''(b) SPECIFIC PROGRAM REQUIREMENTS.—The Secretary, acting through the Community Health Aide Program of the Service, shall—

''(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

''(2) in order to provide such training, develop a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

''(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

''(C) promotes the achievement of the health status objectives specified in section 3(2);

''(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

''(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

''(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners;

''(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services; and

''(7) ensure that pulpal therapy (not including pulpotomies on deciduous teeth) or extraction of adult teeth can be performed by a dental health aide therapist only after consultation with a licensed dentist who determines that the procedure is a medical emergency that cannot be resolved with palliative treatment, and further that dental health aide therapists are strictly prohibited from performing all other oral or jaw surgeries, provided that uncomplicated extractions shall not be considered oral surgery under this section.

''(c) PROGRAM REVIEW.—

''(1) NEUTRAL PANEL.—

''(A) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish a neutral panel to carry out the study under paragraph (2).

''(B) MEMBERSHIP.—Members of the neutral panel shall be appointed by the Secretary from among clinicians, economists, community practitioners, oral epidemiologists, and Alaska Natives.

''(2) STUDY.—

''(A) IN GENERAL.—The neutral panel established under paragraph (1) shall conduct a study of the dental health aide therapist services provided by the Community Health Aide Program under this section to ensure that the quality of care provided through those services is adequate and appropriate.

''(B) PARAMETERS OF STUDY.—The Secretary, in consultation with interested parties, including professional dental organizations, shall develop the parameters of the study.

''(C) INCLUSIONS.—The study shall include a determination by the neutral panel with respect to—

''(i) the ability of the dental health aide therapist services under this section to address the dental care needs of Alaska Natives;

''(ii) the quality of care provided through those services, including any training, improvement, or additional oversight required to improve the quality of care; and

''(iii) whether safer and less costly alternatives to the dental health aide therapist services exist.

''(D) CONSULTATION.—In carrying out the study under this paragraph, the neutral panel shall consult with Alaska Tribal Organizations with respect to the adequacy and accuracy of the study.

''(3) REPORT.—The neutral panel shall submit to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Natural Resources of the House of Representatives a report describing the results of the study under paragraph (2), including a description of—

''(A) any determination of the neutral panel under paragraph (2)(C); and

''(B) any comments received from an Alaska Tribal Organization under paragraph (2)(D).

''(d) NATIONALIZATION OF PROGRAM.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Service, may establish a national Community Health Aide Program in accordance with the program under this section, as the Secretary determines to be appropriate.

''(2) EXCEPTION.—The national Community Health Aide Program under paragraph (1) shall not include dental health aide therapist services.

''(3) REQUIREMENT.—In establishing a national program under paragraph (1), the Secretary shall not reduce the amount of funds provided for the Community Health Aide Program described in subsections (a) and (b).

"SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.

''The Secretary, acting through the Service, shall, by contract or otherwise, provide training for Indians in the administration and planning of Tribal Health Programs.

"SEC. 123. HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROGRAMS.

''(a) DEMONSTRATION PROGRAMS AUTHORIZED.—The Secretary, acting through the Service, may fund demonstration programs for Tribal Health Programs to address the chronic shortages of health professionals.

''(b) PURPOSES OF PROGRAMS.—The purposes of demonstration programs funded under subsection (a) shall be—

''(1) to provide direct clinical and practical experience at a Service Unit to health profession students and residents from medical schools;

''(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

''(3) to provide academic and scholarly opportunities for health professionals serving Indians by identifying all academic and scholarly resources of the region.

''(c) ADVISORY BOARD.—The demonstration programs established pursuant to subsection (a) shall incorporate a program advisory board composed of representatives from the Indian Tribes and Indian communities in the area which will be served by the program.

"SEC. 124. NATIONAL HEALTH SERVICE CORPS.

''The Secretary shall not—

''(1) remove a member of the National Health Service Corps from an Indian Health Program or Urban Indian Organization; or

''(2) withdraw funding used to support such member, unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.

"SEC. 125. SUBSTANCE ABUSE COUNSELOR EDUCATIONAL CURRICULA DEMONSTRATION PROGRAMS.

''(a) CONTRACTS AND GRANTS.—The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribal colleges and universities and eligible accredited and accessible community colleges to establish demonstration programs to develop educational curricula for substance abuse counseling.

''(b) USE OF FUNDS.—Funds provided under this section shall be used only for developing and providing educational curriculum for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

''(c) TIME PERIOD OF ASSISTANCE; RENEWAL.—A contract entered into or a grant provided under this section shall be for a period of 3 years. Such contract or grant may be renewed for an additional 2-year period upon the approval of the Secretary.

''(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—Not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary, after consultation with Indian Tribes and administrators of tribal colleges and universities and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration programs established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

''(e) ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

''(f) REPORT.—Each fiscal year, the Secretary shall submit to the President, for inclusion in the report which is required to be

submitted under section 801 for that fiscal year, a report on the findings and conclusions derived from the demonstration programs conducted under this section during that fiscal year.

''(g) DEFINITION.—For the purposes of this section, the term 'educational curriculum' means 1 or more of the following:

''(1) Classroom education.

''(2) Clinical work experience.

''(3) Continuing education workshops.

"SEC. 126. BEHAVIORAL HEALTH TRAINING AND COMMUNITY EDUCATION PROGRAMS.

''(a) STUDY; LIST.—The Secretary, acting through the Service, and the Secretary of the Interior, in consultation with Indian Tribes and Tribal Organizations, shall conduct a study and compile a list of the types of staff positions specified in subsection (b) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness, or dysfunctional and self destructive behavior.

''(b) POSITIONS.—The positions referred to in subsection (a) are—

''(1) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

''(A) elementary and secondary education;

''(B) social services and family and child welfare;

''(C) law enforcement and judicial services; and

''(D) alcohol and substance abuse;

''(2) staff positions within the Service; and

''(3) staff positions similar to those identified in paragraphs (1) and (2) established and maintained by Indian Tribes and Tribal Organizations (without regard to the funding source).

''(c) TRAINING CRITERIA.—

''(1) IN GENERAL.—The appropriate Secretary shall provide training criteria appropriate to each type of position identified in subsection (b)(1) and (b)(2) and ensure that appropriate training has been, or shall be provided to any individual in any such position. With respect to any such individual in a position identified pursuant to subsection (b)(3), the respective Secretaries shall provide appropriate training to, or provide funds to, an Indian Tribe or Tribal Organization for training of appropriate individuals. In the case of positions funded under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the appropriate Secretary shall ensure that such training costs are included in the contract or compact, as the Secretary determines necessary.

''(2) POSITION SPECIFIC TRAINING CRITERIA.—Position specific training criteria shall be culturally relevant to Indians and Indian Tribes and shall ensure that appropriate information regarding traditional health care practices is provided.

''(d) COMMUNITY EDUCATION ON MENTAL ILLNESS.—The Service shall develop and implement, on request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, or assist the Indian Tribe, Tribal Organization, or Urban Indian Organization to develop and implement, a program of community education on mental illness. In carrying out this subsection, the Service shall, upon request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, provide technical assistance to the Indian Tribe, Tribal Organization, or Urban Indian Organization to obtain and develop community educational materials on the identification, prevention, referral, and treatment of mental illness and dysfunctional and self-destructive behavior.

''(e) PLAN.—Not later than 90 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall develop a plan under which the Service will increase the health care staff providing behavioral health services by at least 500 positions within 5 years after the date of enactment of this section, with at least 200 of such positions devoted to child, adolescent, and family services. The plan developed under this subsection shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act').

"SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2017 to carry out this title.

"TITLE II—HEALTH SERVICES

"SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

''(a) USE OF FUNDS.—The Secretary, acting through the Service, is authorized to expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), which are appropriated under the authority of this section, for the purposes of—

''(1) eliminating the deficiencies in health status and health resources of all Indian Tribes;

''(2) eliminating backlogs in the provision of health care services to Indians;

''(3) meeting the health needs of Indians in an efficient and equitable manner, including the use of telehealth and telemedicine when appropriate;

''(4) eliminating inequities in funding for both direct care and contract health service programs; and

''(5) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian Tribes with the highest levels of health status deficiencies and resource deficiencies:

''(A) Clinical care, including inpatient care, outpatient care (including audiology, clinical eye, and vision care), primary care, secondary and tertiary care, and long-term care.

''(B) Preventive health, including mammography and other cancer screening in accordance with section 207.

''(C) Dental care.

''(D) Mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care practitioners.

''(E) Emergency medical services.

''(F) Treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol spectrum disorders) among Indians.

''(G) Injury prevention programs, including training.

''(H) Home health care.

''(I) Community health representatives.

''(J) Maintenance and improvement.

''(b) NO OFFSET OR LIMITATION.—Any funds appropriated under the authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act or the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other provision of law.

''(c) ALLOCATION; USE.—

''(1) IN GENERAL.—Funds appropriated under the authority of this section shall be allocated to Service Units, Indian Tribes, or Tribal Organizations. The funds allocated to each Indian Tribe, Tribal Organization, or Service Unit under this paragraph shall be used by the Indian Tribe, Tribal Organization, or Service Unit under this paragraph to improve the health status and reduce the resource deficiency of each Indian Tribe served by such Service Unit, Indian Tribe, or Tribal Organization.

''(2) APPORTIONMENT OF ALLOCATED FUNDS.—The apportionment of funds allocated to a Service Unit, Indian Tribe, or Tribal Organization under paragraph (1) among the health service responsibilities described in subsection (a)(5) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian Tribes and Tribal Organizations.

''(d) PROVISIONS RELATING TO HEALTH STATUS AND RESOURCE DEFICIENCIES.—For the purposes of this section, the following definitions apply:

''(1) DEFINITION.—The term 'health status and resource deficiency' means the extent to which—

''(A) the health status objectives set forth in section 3(2) are not being achieved; and

''(B) the Indian Tribe or Tribal Organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

''(2) AVAILABLE RESOURCES.—The health resources available to an Indian Tribe or Tribal Organization include health resources provided by the Service as well as health resources used by the Indian Tribe or Tribal Organization, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

''(3) PROCESS FOR REVIEW OF DETERMINATIONS.—The Secretary shall establish procedures which allow any Indian Tribe or Tribal Organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such Indian Tribe or Tribal Organization.

''(e) ELIGIBILITY FOR FUNDS.—Tribal Health Programs shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

''(f) REPORT.—By no later than the date that is 3 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall submit to Congress the current health status and resource deficiency report of the Service for each Service Unit, including newly recognized or acknowledged Indian Tribes. Such report shall set out—

''(1) the methodology then in use by the Service for determining Tribal health status and resource deficiencies, as well as the most recent application of that methodology;

''(2) the extent of the health status and resource deficiency of each Indian Tribe served by the Service or a Tribal Health Program;

''(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian Tribes served by the Service or a Tribal Health Program; and

''(4) an estimate of—

''(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service for the preceding fiscal year which is allocated to each Service Unit, Indian Tribe, or Tribal Organization;

''(B) the number of Indians eligible for health services in each Service Unit or Indian Tribe or Tribal Organization; and

''(C) the number of Indians using the Service resources made available to each Service Unit, Indian Tribe or Tribal Organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

''(g) INCLUSION IN BASE BUDGET.—Funds appropriated under this section for any fiscal

year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

''(h) CLARIFICATION.—Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve equity among Indian Tribes and Tribal Organizations.

''(i) FUNDING DESIGNATION.—Any funds appropriated under the authority of this section shall be designated as the 'Indian Health Care Improvement Fund'.

''SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

''(a) ESTABLISHMENT.—There is established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the 'CHEF') consisting of—

''(1) the amounts deposited under subsection (f); and

''(2) the amounts appropriated to CHEF under this section.

''(b) ADMINISTRATION.—CHEF shall be administered by the Secretary, acting through the headquarters of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

''(c) CONDITIONS ON USE OF FUND.—No part of CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), nor shall CHEF funds be allocated, apportioned, or delegated on an Area Office, Service Unit, or other similar basis.

''(d) REGULATIONS.—The Secretary shall promulgate regulations consistent with the provisions of this section to—

''(1) establish a definition of disasters and catastrophic illnesses for which the cost of the treatment provided under contract would qualify for payment from CHEF;

''(2) provide that a Service Unit shall not be eligible for reimbursement for the cost of treatment from CHEF until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

''(A) the 2000 level of $19,000; and

''(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

''(3) establish a procedure for the reimbursement of the portion of the costs that exceeds such threshold cost incurred by—

''(A) Service Units; or

''(B) whenever otherwise authorized by the Service, non-Service facilities or providers;

''(4) establish a procedure for payment from CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

''(5) establish a procedure that will ensure that no payment shall be made from CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

''(e) NO OFFSET OR LIMITATION.—Amounts appropriated to CHEF under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other law.

''(f) DEPOSIT OF REIMBURSEMENT FUNDS.—There shall be deposited into CHEF all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from CHEF.

''SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

''(a) FINDINGS.—Congress finds that health promotion and disease prevention activities—

''(1) improve the health and well-being of Indians; and

''(2) reduce the expenses for health care of Indians.

''(b) PROVISION OF SERVICES.—The Secretary, acting through the Service and Tribal Health Programs, shall provide health promotion and disease prevention services to Indians to achieve the health status objectives set forth in section 3(2).

''(c) EVALUATION.—The Secretary, after obtaining input from the affected Tribal Health Programs, shall submit to the President for inclusion in the report which is required to be submitted to Congress under section 801 an evaluation of—

''(1) the health promotion and disease prevention needs of Indians;

''(2) the health promotion and disease prevention activities which would best meet such needs;

''(3) the internal capacity of the Service and Tribal Health Programs to meet such needs; and

''(4) the resources which would be required to enable the Service and Tribal Health Programs to undertake the health promotion and disease prevention activities necessary to meet such needs.

''SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

''(a) DETERMINATIONS REGARDING DIABETES.—The Secretary, acting through the Service, and in consultation with Indian Tribes and Tribal Organizations, shall determine—

''(1) by Indian Tribe and by Service Unit, the incidence of, and the types of complications resulting from, diabetes among Indians; and

''(2) based on the determinations made pursuant to paragraph (1), the measures (including patient education and effective ongoing monitoring of disease indicators) each Service Unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among Indian Tribes within that Service Unit.

''(b) DIABETES SCREENING.—To the extent medically indicated and with informed consent, the Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic and establish a cost-effective approach to ensure ongoing monitoring of disease indicators. Such screening and monitoring may be conducted by a Tribal Health Program and may be conducted through appropriate Internet-based health care management programs.

''(c) DIABETES PROJECTS.—The Secretary shall continue to maintain each model diabetes project in existence on the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, any such other diabetes programs operated by the Service or Tribal Health Programs, and any additional diabetes projects, such as the Medical Vanguard program provided for in title IV of Public Law 108–87, as implemented to serve Indian Tribes. Tribal Health Programs shall receive recurring funding for the diabetes projects that they operate pursuant to this section, both at the date of enactment of the Indian Health Care Improvement Act Amendments of 2008 and for projects which are added and funded thereafter.

''(d) DIALYSIS PROGRAMS.—The Secretary is authorized to provide, through the Service, Indian Tribes, and Tribal Organizations, dialysis programs, including the purchase of dialysis equipment and the provision of necessary staffing.

''(e) OTHER DUTIES OF THE SECRETARY.—

''(1) IN GENERAL.—The Secretary shall, to the extent funding is available—

''(A) in each Area Office, consult with Indian Tribes and Tribal Organizations regarding programs for the prevention, treatment, and control of diabetes;

''(B) establish in each Area Office a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area; and

''(C) ensure that data collected in each Area Office regarding diabetes and related complications among Indians are disseminated to all other Area Offices, subject to applicable patient privacy laws.

''(2) DIABETES CONTROL OFFICERS.—

''(A) IN GENERAL.—The Secretary may establish and maintain in each Area Office a position of diabetes control officer to coordinate and manage any activity of that Area Office relating to the prevention, treatment, or control of diabetes to assist the Secretary in carrying out a program under this section or section 330C of the Public Health Service Act (42 U.S.C. 254c–3).

''(B) CERTAIN ACTIVITIES.—Any activity carried out by a diabetes control officer under subparagraph (A) that is the subject of a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and any funds made available to carry out such an activity, shall not be divisible for purposes of that Act.

''SEC. 205. SHARED SERVICES FOR LONG-TERM CARE.

''(a) LONG-TERM CARE.—Notwithstanding any other provision of law, the Secretary, acting through the Service, is authorized to provide directly, or enter into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) with Indian Tribes or Tribal Organizations for, the delivery of long-term care (including health care services associated with long-term care) provided in a facility to Indians. Such agreements shall provide for the sharing of staff or other services between the Service or a Tribal Health Program and a long-term care or related facility owned and operated (directly or through a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) by such Indian Tribe or Tribal Organization.

''(b) CONTENTS OF AGREEMENTS.—An agreement entered into pursuant to subsection (a)—

''(1) may, at the request of the Indian Tribe or Tribal Organization, delegate to such Indian Tribe or Tribal Organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

''(2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the Tribal Health Program be allocated proportionately between the Service and the Indian Tribe or Tribal Organization; and

''(3) may authorize such Indian Tribe or Tribal Organization to construct, renovate, or expand a long-term care or other similar facility (including the construction of a facility attached to a Service facility).

''(c) MINIMUM REQUIREMENT.—Any nursing facility provided for under this section shall

meet the requirements for nursing facilities under section 1919 of the Social Security Act.

''(d) OTHER ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

''(e) USE OF EXISTING OR UNDERUSED FACILITIES.—The Secretary shall encourage the use of existing facilities that are underused or allow the use of swing beds for long-term or similar care.

''SEC. 206. HEALTH SERVICES RESEARCH.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall make funding available for research to further the performance of the health service responsibilities of Indian Health Programs.

''(b) COORDINATION OF RESOURCES AND ACTIVITIES.—The Secretary shall also, to the maximum extent practicable, coordinate departmental research resources and activities to address relevant Indian Health Program research needs.

''(c) AVAILABILITY.—Tribal Health Programs shall be given an equal opportunity to compete for, and receive, research funds under this section.

''(d) USE OF FUNDS.—This funding may be used for both clinical and nonclinical research.

''(e) EVALUATION AND DISSEMINATION.—The Secretary shall periodically—

''(1) evaluate the impact of research conducted under this section; and

''(2) disseminate to Tribal Health Programs information regarding that research as the Secretary determines to be appropriate.

''SEC. 207. MAMMOGRAPHY AND OTHER CANCER SCREENING.

''The Secretary, acting through the Service or Tribal Health Programs, shall provide for screening as follows:

''(1) Screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian women at a frequency appropriate to such women under accepted and appropriate national standards, and under such terms and conditions as are consistent with standards established by the Secretary to ensure the safety and accuracy of screening mammography under part B of title XVIII of such Act.

''(2) Other cancer screening that receives an A or B rating as recommended by the United States Preventive Services Task Force established under section 915(a)(1) of the Public Health Service Act (42 U.S.C. 299b–4(a)(1)). The Secretary shall ensure that screening provided for under this paragraph complies with the recommendations of the Task Force with respect to—

''(A) frequency;

''(B) the population to be served;

''(C) the procedure or technology to be used;

''(D) evidence of effectiveness; and

''(E) other matters that the Secretary determines appropriate.

''SEC. 208. PATIENT TRAVEL COSTS.

''(a) DEFINITION OF QUALIFIED ESCORT.—In this section, the term 'qualified escort' means—

''(1) an adult escort (including a parent, guardian, or other family member) who is required because of the physical or mental condition, or age, of the applicable patient;

''(2) a health professional for the purpose of providing necessary medical care during travel by the applicable patient; or

''(3) other escorts, as the Secretary or applicable Indian Health Program determines to be appropriate.

''(b) PROVISION OF FUNDS.—The Secretary, acting through the Service and Tribal Health Programs, is authorized to provide funds for the following patient travel costs, including qualified escorts, associated with receiving health care services provided (either through direct or contract care or through a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) under this Act—

''(1) emergency air transportation and nonemergency air transportation where ground transportation is infeasible;

''(2) transportation by private vehicle (where no other means of transportation is available), specially equipped vehicle, and ambulance; and

''(3) transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

''SEC. 209. EPIDEMIOLOGY CENTERS.

''(a) ESTABLISHMENT OF CENTERS.—The Secretary shall establish an epidemiology center in each Service Area to carry out the functions described in subsection (b). Any new center established after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008 may be operated under a grant authorized by subsection (d), but funding under such a grant shall not be divisible.

''(b) FUNCTIONS OF CENTERS.—In consultation with and upon the request of Indian Tribes, Tribal Organizations, and Urban Indian communities, each Service Area epidemiology center established under this section shall, with respect to such Service Area—

''(1) collect data relating to, and monitor progress made toward meeting, each of the health status objectives of the Service, the Indian Tribes, Tribal Organizations, and Urban Indian communities in the Service Area;

''(2) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

''(3) assist Indian Tribes, Tribal Organizations, and Urban Indian Organizations in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

''(4) make recommendations for the targeting of services needed by the populations served;

''(5) make recommendations to improve health care delivery systems for Indians and Urban Indians;

''(6) provide requested technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

''(7) provide disease surveillance and assist Indian Tribes, Tribal Organizations, and Urban Indian communities to promote public health.

''(c) TECHNICAL ASSISTANCE.—The Director of the Centers for Disease Control and Prevention shall provide technical assistance to the centers in carrying out the requirements of this section.

''(d) GRANTS FOR STUDIES.—

''(1) IN GENERAL.—The Secretary may make grants to Indian Tribes, Tribal Organizations, Indian organizations, and eligible intertribal consortia to conduct epidemiological studies of Indian communities.

''(2) ELIGIBLE INTERTRIBAL CONSORTIA.—An intertribal consortium or Indian organization is eligible to receive a grant under this subsection if—

''(A) the intertribal consortium is incorporated for the primary purpose of improving Indian health; and

''(B) the intertribal consortium is representative of the Indian Tribes or urban Indian communities in which the intertribal consortium is located.

''(3) APPLICATIONS.—An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall prescribe.

''(4) REQUIREMENTS.—An applicant for a grant under this subsection shall—

''(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);

''(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and

''(C) demonstrate cooperation from Indian Tribes or Urban Indian Organizations in the area to be served.

''(5) USE OF FUNDS.—A grant awarded under paragraph (1) may be used—

''(A) to carry out the functions described in subsection (b);

''(B) to provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff on health care and health service management issues; and

''(C) in collaboration with Indian Tribes, Tribal Organizations, and urban Indian communities, to provide the Service with information regarding ways to improve the health status of Indians.

''(e) ACCESS TO INFORMATION.—The Secretary shall grant epidemiology centers operated by a grantee pursuant to a grant awarded under subsection (d) access to use of the data, data sets, monitoring systems, delivery systems, and other protected health information in the possession of the Secretary. Such activities shall be for the purposes of research and for preventing and controlling disease, injury, or disability for purposes of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033), as such activities are described in part 164.512 of title 45, Code of Federal regulations (or a successor regulation).

''SEC. 210. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

''(a) FUNDING FOR DEVELOPMENT OF PROGRAMS.—In addition to carrying out any other program for health promotion or disease prevention, the Secretary, acting through the Service, is authorized to award grants to Indian Tribes and Tribal Organizations to develop comprehensive school health education programs for children from pre-school through grade 12 in schools for the benefit of Indian and Urban Indian children.

''(b) USE OF GRANT FUNDS.—A grant awarded under this section may be used for purposes which may include, but are not limited to, the following:

''(1) Developing health education materials both for regular school programs and after-school programs.

''(2) Training teachers in comprehensive school health education materials.

''(3) Integrating school-based, community-based, and other public and private health promotion efforts.

''(4) Encouraging healthy, tobacco-free school environments.

''(5) Coordinating school-based health programs with existing services and programs available in the community.

''(6) Developing school programs on nutrition education, personal health, oral health, and fitness.

''(7) Developing behavioral health wellness programs.

''(8) Developing chronic disease prevention programs.

''(9) Developing substance abuse prevention programs.

''(10) Developing injury prevention and safety education programs.

''(11) Developing activities for the prevention and control of communicable diseases.

''(12) Developing community and environmental health education programs that include traditional health care practitioners.

''(13) Violence prevention.

''(14) Such other health issues as are appropriate.

''(c) TECHNICAL ASSISTANCE.—Upon request, the Secretary, acting through the Service, shall provide technical assistance to Indian Tribes and Tribal Organizations in the development of comprehensive health education plans and the dissemination of comprehensive health education materials and information on existing health programs and resources.

''(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, acting through the Service, and in consultation with Indian Tribes and Tribal Organizations, shall establish criteria for the review and approval of applications for grants awarded under this section.

''(e) DEVELOPMENT OF PROGRAM FOR BIA-FUNDED SCHOOLS.—

''(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, acting through the Service, and affected Indian Tribes and Tribal Organizations, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools for which support is provided by the Bureau of Indian Affairs.

''(2) REQUIREMENTS FOR PROGRAMS.—Such programs shall include—

''(A) school programs on nutrition education, personal health, oral health, and fitness;

''(B) behavioral health wellness programs;

''(C) chronic disease prevention programs;

''(D) substance abuse prevention programs;

''(E) injury prevention and safety education programs; and

''(F) activities for the prevention and control of communicable diseases.

''(3) DUTIES OF THE SECRETARY.—The Secretary of the Interior shall—

''(A) provide training to teachers in comprehensive school health education materials;

''(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

''(C) encourage healthy, tobacco-free school environments.

''SEC. 211. INDIAN YOUTH PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Service, is authorized to establish and administer a program to provide grants to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian preadolescent and adolescent youths.

''(b) USE OF FUNDS.—

''(1) ALLOWABLE USES.—Funds made available under this section may be used to—

''(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional health care practitioners; and

''(B) develop and provide community training and education.

''(2) PROHIBITED USE.—Funds made available under this section may not be used to provide services described in section 707(c).

''(c) DUTIES OF THE SECRETARY.—The Secretary shall—

''(1) disseminate to Indian Tribes and Tribal Organizations information regarding models for the delivery of comprehensive health care services to Indian and Urban Indian adolescents;

''(2) encourage the implementation of such models; and

''(3) at the request of an Indian Tribe or Tribal Organization, provide technical assistance in the implementation of such models.

''(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, and in conference with Urban Indian Organizations, shall establish criteria for the review and approval of applications or proposals under this section.

''SEC. 212. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

''(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, and after consultation with the Centers for Disease Control and Prevention, may make grants available to Indian Tribes and Tribal Organizations for the following:

''(1) Projects for the prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncytial virus, hanta virus, sexually transmitted diseases, and H. Pylori.

''(2) Public information and education programs for the prevention, control, and elimination of communicable and infectious diseases.

''(3) Education, training, and clinical skills improvement activities in the prevention, control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals.

''(4) Demonstration projects for the screening, treatment, and prevention of hepatitis C virus (HCV).

''(b) APPLICATION REQUIRED.—The Secretary may provide funding under subsection (a) only if an application or proposal for funding is submitted to the Secretary.

''(c) COORDINATION WITH HEALTH AGENCIES.—Indian Tribes and Tribal Organizations receiving funding under this section are encouraged to coordinate their activities with the Centers for Disease Control and Prevention and State and local health agencies.

''(d) TECHNICAL ASSISTANCE; REPORT.—In carrying out this section, the Secretary—

''(1) may, at the request of an Indian Tribe or Tribal Organization, provide technical assistance; and

''(2) shall prepare and submit a report to Congress biennially on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and Urban Indians.

''SEC. 213. OTHER AUTHORITY FOR PROVISION OF SERVICES.

''(a) FUNDING AUTHORIZED.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may provide funding under this Act to meet the objectives set forth in section 3 of this Act through health care-related services and programs not otherwise described in this Act for the following services:

''(1) Hospice care.

''(2) Assisted living services.

''(3) Long-term care services.

''(4) Home- and community-based services.

''(b) ELIGIBILITY.—The following individuals shall be eligible to receive long-term care under this section:

''(1) Individuals who are unable to perform a certain number of activities of daily living without assistance.

''(2) Individuals with a mental impairment, such as dementia, Alzheimer's disease, or another disabling mental illness, who may be able to perform activities of daily living under supervision.

''(3) Such other individuals as an applicable Indian Health Program determines to be appropriate.

''(c) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

''(1) The term 'assisted living services' means any service provided by an assisted living facility (as defined in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b))), except that such an assisted living facility—

''(A) shall not be required to obtain a license; but

''(B) shall meet all applicable standards for licensure.

''(2) The term 'home- and community-based services' means 1 or more of the services specified in paragraphs (1) through (9) of section 1929(a) of the Social Security Act (42 U.S.C. 1396t(a)) (whether provided by the Service or by an Indian Tribe or Tribal Organization pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) that are or will be provided in accordance with applicable standards.

''(3) The term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which an Indian Tribe or Tribal Organization determines are necessary and appropriate to provide in furtherance of this care.

''(4) The term 'long-term care services' has the meaning given the term 'qualified long-term care services' in section 7702B(c) of the Internal Revenue Code of 1986.

''(d) AUTHORIZATION OF CONVENIENT CARE SERVICES.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may also provide funding under this Act to meet the objectives set forth in section 3 of this Act for convenient care services programs pursuant to section 306(c)(2)(A).

''SEC. 214. INDIAN WOMEN'S HEALTH CARE.

''The Secretary, acting through the Service and Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

''SEC. 215. ENVIRONMENTAL AND NUCLEAR HEALTH HAZARDS.

''(a) STUDIES AND MONITORING.—The Secretary and the Service shall conduct, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian Tribes and Tribal Organizations, studies and ongoing monitoring programs to determine trends in the health hazards to Indian miners and to Indians on or near reservations and Indian communities as a result of environmental hazards which may result in chronic or life threatening health problems, such as nuclear resource development, petroleum contamination, and contamination of water sources and of the food chain. Such studies shall include—

''(1) an evaluation of the nature and extent of health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems;

''(2) an analysis of the potential effect of ongoing and future environmental resource development on or near reservations and Indian communities, including the cumulative effect over time on health;

''(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal; oil and gas production or transportation on or near reservations or Indian communities; and other development that could affect the health of Indians and their water supply and food chain;

''(4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the 5 years prior to the date of enactment of the Indian Health Care Improvement Act Amendments of 2008 that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

''(5) the efforts that have been made by Federal and State agencies and resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such development.

''(b) HEALTH CARE PLANS.—Upon completion of such studies, the Secretary and the Service shall take into account the results of such studies and develop health care plans to address the health problems studied under subsection (a). The plans shall include—

''(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

''(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation or affected by other activities that have had or could have a serious impact upon the health of such individuals; and

''(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

''(c) SUBMISSION OF REPORT AND PLAN TO CONGRESS.—The Secretary and the Service shall submit to Congress the study prepared under subsection (a) no later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008. The health care plan prepared under subsection (b) shall be submitted in a report no later than 1 year after the study prepared under subsection (a) is submitted to Congress. Such report shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

''(d) INTERGOVERNMENTAL TASK FORCE.—

''(1) ESTABLISHMENT; MEMBERS.—There is established an Intergovernmental Task Force to be composed of the following individuals (or their designees):

''(A) The Secretary of Energy.

''(B) The Secretary of the Environmental Protection Agency.

''(C) The Director of the Bureau of Mines.

''(D) The Assistant Secretary for Occupational Safety and Health.

''(E) The Secretary of the Interior.

''(F) The Secretary of Health and Human Services.

''(G) The Director.

''(2) DUTIES.—The Task Force shall—

''(A) identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near a reservation or in an Indian community; and

''(B) enter into activities to correct existing health hazards and ensure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced.

''(3) CHAIRMAN; MEETINGS.—The Secretary of Health and Human Services shall be the Chairman of the Task Force. The Task Force shall meet at least twice each year.

''(e) HEALTH SERVICES TO CERTAIN EMPLOYEES.—In the case of any Indian who—

''(1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work-related illness or condition;

''(2) is eligible to receive diagnosis and treatment services from an Indian Health Program; and

''(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard, the Indian Health Program shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may be reimbursed for any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such amounts paid to the Indian Health Program from the employer for providing medical care for such illness or condition.

''SEC. 216. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2016, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

''(b) MAINTENANCE OF SERVICES.—The Service shall not curtail any health care services provided to Indians residing on reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

''SEC. 216A. NORTH DAKOTA AND SOUTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—Beginning in fiscal year 2003, the States of North Dakota and South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota and South Dakota.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on any reservation, or in any county that has a common boundary with any reservation, in the State of North Dakota or South Dakota if such curtailment is due to the provision of contract services in such States pursuant to the designation of such States as a contract health service delivery area pursuant to subsection (a).

''SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES PROGRAM.

''(a) FUNDING AUTHORIZED.—The Secretary is authorized to fund a program using the California Rural Indian Health Board (hereafter in this section referred to as the 'CRIHB') as a contract care intermediary to improve the accessibility of health services to California Indians.

''(b) REIMBURSEMENT CONTRACT.—The Secretary shall enter into an agreement with the CRIHB to reimburse the CRIHB for costs (including reasonable administrative costs) incurred pursuant to this section, in providing medical treatment under contract to California Indians described in section 806(a) throughout the California contract health services delivery area described in section 218 with respect to high cost contract care cases.

''(c) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amounts provided to the CRIHB under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the CRIHB during such fiscal year.

''(d) LIMITATION ON PAYMENT.—No payment may be made for treatment provided hereunder to the extent payment may be made for such treatment under the Indian Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

''(e) ADVISORY BOARD.—There is established an advisory board which shall advise the CRIHB in carrying out this section. The advisory board shall be composed of representatives, selected by the CRIHB, from not less than 8 Tribal Health Programs serving California Indians covered under this section at least ½ of whom of whom are not affiliated with the CRIHB.

''SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to California Indians. However, any of the counties listed herein may only be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties.

''SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

''(a) AUTHORIZATION FOR SERVICES.—The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

''(b) NO EXPANSION OF ELIGIBILITY.—Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

''SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

''The Service shall provide funds for health care programs and facilities operated by Tribal Health Programs on the same basis as such funds are provided to programs and facilities operated directly by the Service.

''SEC. 221. LICENSING.

''Health care professionals employed by a Tribal Health Program shall, if licensed in any State, be exempt from the licensing requirements of the State in which the Tribal Health Program performs the services described in its contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''SEC. 222. NOTIFICATION OF PROVISION OF EMERGENCY CONTRACT HEALTH SERVICES.

''With respect to an elderly Indian or an Indian with a disability receiving emergency

medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

"SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.

''(a) DEADLINE FOR RESPONSE.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

''(b) EFFECT OF UNTIMELY RESPONSE.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

''(c) DEADLINE FOR PAYMENT OF VALID CLAIM.—The Service shall pay a valid contract care service claim within 30 days after the completion of the claim.

"SEC. 224. LIABILITY FOR PAYMENT.

''(a) NO PATIENT LIABILITY.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

''(b) NOTIFICATION.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services not later than 5 business days after receipt of a notification of a claim by a provider of contract care services.

''(c) NO RECOURSE.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under section 223(b), the provider shall have no further recourse against the patient who received the services.

"SEC. 225. OFFICE OF INDIAN MEN'S HEALTH.

''(a) ESTABLISHMENT.—The Secretary may establish within the Service an office to be known as the 'Office of Indian Men's Health' (referred to in this section as the 'Office').

''(b) DIRECTOR.—

''(1) IN GENERAL.—The Office shall be headed by a director, to be appointed by the Secretary.

''(2) DUTIES.—The director shall coordinate and promote the status of the health of Indian men in the United States.

''(c) REPORT.—Not later than 2 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary, acting through the director of the Office, shall submit to Congress a report describing—

''(1) any activity carried out by the director as of the date on which the report is prepared; and

''(2) any finding of the director with respect to the health of Indian men.

"SEC. 226. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2017 to carry out this title.

"TITLE III—FACILITIES

"SEC. 301. CONSULTATION; CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

''(a) PREREQUISITES FOR EXPENDITURE OF FUNDS.—Prior to the expenditure of, or the making of any binding commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall—

''(1) consult with any Indian Tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

''(2) ensure, whenever practicable and applicable, that such facility meets the construction standards of any accrediting body recognized by the Secretary for the purposes of the Medicare, Medicaid, and SCHIP programs under titles XVIII, XIX, and XXI of the Social Security Act by not later than 1 year after the date on which the construction or renovation of such facility is completed.

''(b) CLOSURES AND REDUCTIONS IN HOURS OF SERVICE.—

''(1) EVALUATION REQUIRED.—Notwithstanding any other provision of law, no facility operated by the Service, or any portion of such facility, may be closed or have the hours of service of the facility reduced if the Secretary has not submitted to Congress not less than 1 year, and not more than 2 years, before the date of the proposed closure or reduction in hours of service an evaluation, completed not more than 2 years before the submission, of the impact of the proposed closure or reduction in hours of service that specifies, in addition to other considerations—

''(A) the accessibility of alternative health care resources for the population served by such facility;

''(B) the cost-effectiveness of such closure or reduction in hours of service;

''(C) the quality of health care to be provided to the population served by such facility after such closure or reduction in hours of service;

''(D) the availability of contract health care funds to maintain existing levels of service;

''(E) the views of the Indian Tribes served by such facility concerning such closure or reduction in hours of service;

''(F) the level of use of such facility by all eligible Indians; and

''(G) the distance between such facility and the nearest operating Service hospital.

''(2) EXCEPTION FOR CERTAIN TEMPORARY CLOSURES AND REDUCTIONS.—Paragraph (1) shall not apply to any temporary closure or reduction in hours of service of a facility or any portion of a facility if such closure or reduction in hours of service is necessary for medical, environmental, or construction safety reasons.

''(c) HEALTH CARE FACILITY PRIORITY SYSTEM.—

''(1) IN GENERAL.—

''(A) PRIORITY SYSTEM.—The Secretary, acting through the Service, shall maintain a health care facility priority system, which—

''(i) shall be developed in consultation with Indian Tribes and Tribal Organizations;

''(ii) shall give Indian Tribes' needs the highest priority;

''(iii)(I) may include the lists required in paragraph (2)(B)(ii); and

''(II) shall include the methodology required in paragraph (2)(B)(v); and

''(III) may include such health care facilities, and such renovation or expansion needs of any health care facility, as the Service may identify; and

''(iv) shall provide an opportunity for the nomination of planning, design, and construction projects by the Service, Indian Tribes, and Tribal Organizations for consideration under the priority system at least once every 3 years, or more frequently as the Secretary determines to be appropriate.

''(B) NEEDS OF FACILITIES UNDER ISDEAA AGREEMENTS.—The Secretary shall ensure that the planning, design, construction, renovation, and expansion needs of Service and non-Service facilities operated under contracts or compacts in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are fully and equitably integrated into the health care facility priority system.

''(C) CRITERIA FOR EVALUATING NEEDS.—For purposes of this subsection, the Secretary, in evaluating the needs of facilities operated under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), shall use the criteria used by the Secretary in evaluating the needs of facilities operated directly by the Service.

''(D) PRIORITY OF CERTAIN PROJECTS PROTECTED.—The priority of any project established under the construction priority system in effect on the date of enactment of the Indian Health Care Improvement Act Amendments of 2008 shall not be affected by any change in the construction priority system taking place after that date if the project—

''(i) was identified in the fiscal year 2008 Service budget justification as—

''(I) 1 of the 10 top-priority inpatient projects;

''(II) 1 of the 10 top-priority outpatient projects;

''(III) 1 of the 10 top-priority staff quarters developments; or

''(IV) 1 of the 10 top-priority Youth Regional Treatment Centers;

''(ii) had completed both Phase I and Phase II of the construction priority system in effect on the date of enactment of such Act; or

''(iii) is not included in clause (i) or (ii) and is selected, as determined by the Secretary—

''(I) on the initiative of the Secretary; or

''(II) pursuant to a request of an Indian Tribe or Tribal Organization.

''(2) REPORT; CONTENTS.—

''(A) INITIAL COMPREHENSIVE REPORT.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) FACILITIES APPROPRIATION ADVISORY BOARD.—The term 'Facilities Appropriation Advisory Board' means the advisory board, comprised of 12 members representing Indian tribes and 2 members representing the Service, established at the discretion of the Director—

''(aa) to provide advice and recommendations for policies and procedures of the programs funded pursuant to facilities appropriations; and

''(bb) to address other facilities issues.

''(II) FACILITIES NEEDS ASSESSMENT WORKGROUP.—The term 'Facilities Needs Assessment Workgroup' means the workgroup established at the discretion of the Director—

''(aa) to review the health care facilities construction priority system; and

''(bb) to make recommendations to the Facilities Appropriation Advisory Board for revising the priority system.

''(ii) INITIAL REPORT.—

''(I) IN GENERAL.—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the comprehensive, national, ranked list of all health care facilities needs for the Service, Indian Tribes, and Tribal Organizations (including inpatient health care facilities, outpatient health care facilities, specialized health care facilities (such as for long-term care and alcohol and drug abuse treatment), wellness centers, and staff quarters, and the renovation and expansion needs, if any, of such facilities) developed by

the Service, Indian Tribes, and Tribal Organizations for the Facilities Needs Assessment Workgroup and the Facilities Appropriation Advisory Board.

''(II) INCLUSIONS.—The initial report shall include—

''(aa) the methodology and criteria used by the Service in determining the needs and establishing the ranking of the facilities needs; and

''(bb) such other information as the Secretary determines to be appropriate.

''(iii) UPDATES OF REPORT.—Beginning in calendar year 2011, the Secretary shall—

''(I) update the report under clause (ii) not less frequently that once every 5 years; and

''(II) include the updated report in the appropriate annual report under subparagraph (B) for submission to Congress under section 801.

''(B) ANNUAL REPORTS.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report which sets forth the following:

''(i) A description of the health care facility priority system of the Service established under paragraph (1).

''(ii) Health care facilities lists, which may include—

''(I) the 10 top-priority inpatient health care facilities;

''(II) the 10 top-priority outpatient health care facilities;

''(III) the 10 top-priority specialized health care facilities (such as long-term care and alcohol and drug abuse treatment); and

''(IV) the 10 top-priority staff quarters developments associated with health care facilities.

''(iii) The justification for such order of priority.

''(iv) The projected cost of such projects.

''(v) The methodology adopted by the Service in establishing priorities under its health care facility priority system.

''(3) REQUIREMENTS FOR PREPARATION OF REPORTS.—In preparing the report required under paragraph (2), the Secretary shall—

''(A) consult with and obtain information on all health care facilities needs from Indian Tribes and Tribal Organizations; and

''(B) review the total unmet needs of all Indian Tribes and Tribal Organizations for health care facilities (including staff quarters), including needs for renovation and expansion of existing facilities.

''(d) REVIEW OF METHODOLOGY USED FOR HEALTH FACILITIES CONSTRUCTION PRIORITY SYSTEM.—

''(1) IN GENERAL.—Not later than 1 year after the establishment of the priority system under subsection (c)(1)(A), the Comptroller General of the United States shall prepare and finalize a report reviewing the methodologies applied, and the processes followed, by the Service in making each assessment of needs for the list under subsection (c)(2)(A)(ii) and developing the priority system under subsection (c)(1), including a review of—

''(A) the recommendations of the Facilities Appropriation Advisory Board and the Facilities Needs Assessment Workgroup (as those terms are defined in subsection (c)(2)(A)(i)); and

''(B) the relevant criteria used in ranking or prioritizing facilities other than hospitals or clinics.

''(2) SUBMISSION TO CONGRESS.—The Comptroller General of the United States shall submit the report under paragraph (1) to—

''(A) the Committees on Indian Affairs and Appropriations of the Senate;

''(B) the Committees on Natural Resources and Appropriations of the House of Representatives; and

''(C) the Secretary.

''(e) FUNDING CONDITION.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), for the planning, design, construction, or renovation of health facilities for the benefit of 1 or more Indian Tribes shall be subject to the provisions of section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) or sections 504 and 505 of that Act (25 U.S.C. 458aaa–3, 458aaa–4).

''(f) DEVELOPMENT OF INNOVATIVE APPROACHES.—The Secretary shall consult and cooperate with Indian Tribes and Tribal Organizations, and confer with Urban Indian Organizations, in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, that may include—

''(1) the establishment of an area distribution fund in which a portion of health facility construction funding could be devoted to all Service Areas;

''(2) approaches provided for in other provisions of this title; and

''(3) other approaches, as the Secretary determines to be appropriate.

''SEC. 302. SANITATION FACILITIES.

''(a) FINDINGS.—Congress finds the following:

''(1) The provision of sanitation facilities is primarily a health consideration and function.

''(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of sanitation facilities.

''(3) The long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing sanitation facilities and other preventive health measures.

''(4) Many Indian homes and Indian communities still lack sanitation facilities.

''(5) It is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with sanitation facilities.

''(b) FACILITIES AND SERVICES.—In furtherance of the findings made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a). Under such authority, the Secretary, acting through the Service, is authorized to provide the following:

''(1) Financial and technical assistance to Indian Tribes, Tribal Organizations, and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the Indian Tribe, Tribal Organization, or Indian community.

''(2) Ongoing technical assistance and training to Indian Tribes, Tribal Organizations, and Indian communities in the management of utility organizations which operate and maintain sanitation facilities.

''(3) Priority funding for operation and maintenance assistance for, and emergency repairs to, sanitation facilities operated by an Indian Tribe, Tribal Organization or Indian community when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

''(c) FUNDING.—Notwithstanding any other provision of law—

''(1) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) to the Secretary of Health and Human Services;

''(2) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a);

''(3) unless specifically authorized when funds are appropriated, the Secretary shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

''(4) the Secretary of Health and Human Services is authorized to accept from any source, including Federal and State agencies, funds for the purpose of providing sanitation facilities and services and place these funds into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

''(5) the Secretary is authorized to establish a program under which the Secretary may, in accordance with this subsection and with paragraphs (2), (3), (4), and (5) of section 330(d) of the Public Health Service Act (42 U.S.C. 254b(d)) related to a loan guarantee program, guarantee the principal and interest on loans made by lenders to Indian Tribes for new projects to construct eligible sanitation facilities to serve Indian homes, but only to the extent that appropriations are provided in advance specifically for such program, and without reducing funds made available for the provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and this Act;

''(6) except as otherwise prohibited by this section, the Secretary may use funds appropriated under the authority of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to meet matching or cost participation requirements under other Federal and non-Federal programs for new projects to construct eligible sanitation facilities;

''(7) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned, or appropriated whereby the Department's applicable policies, rules, and regulations shall apply in the implementation of such projects;

''(8) the Secretary of Health and Human Services shall enter into interagency agreements with Federal and State agencies for the purpose of providing financial assistance for sanitation facilities and services under this Act;

''(9) the Secretary of Health and Human Services shall, by regulation, establish standards applicable to the planning, design, and construction of sanitation facilities funded under this Act; and

''(10) the Secretary of Health and Human Services is authorized to accept payments for goods and services furnished by the Service from appropriate public authorities, nonprofit organizations or agencies, or Indian Tribes, as contributions by that authority, organization, agency, or tribe to agreements made under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), and such payments shall be credited to the same or subsequent appropriation account as funds appropriated under the authority of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

''(d) CERTAIN CAPABILITIES NOT PREREQUISITE.—The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

''(e) FINANCIAL ASSISTANCE.—The Secretary is authorized to provide financial assistance to Indian Tribes, Tribal Organizations, and Indian communities for operation, management, and maintenance of their sanitation facilities.

''(f) OPERATION, MANAGEMENT, AND MAINTENANCE OF FACILITIES.—The Indian Tribe has the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating, managing, and maintaining sanitation facilities. If a sanitation facility serving a community that is operated by an Indian Tribe or Tribal Organization is threatened with imminent failure and such operator lacks capacity to maintain the integrity or the health benefits of the sanitation facility, then the Secretary is authorized to assist the Indian Tribe, Tribal Organization, or Indian community in the resolution of the problem on a short-term basis through cooperation with the emergency coordinator or by providing operation, management, and maintenance service.

''(g) ISDEAA PROGRAM FUNDED ON EQUAL BASIS.—Tribal Health Programs shall be eligible (on an equal basis with programs that are administered directly by the Service) for—

''(1) any funds appropriated pursuant to this section; and

''(2) any funds appropriated for the purpose of providing sanitation facilities.

''(h) REPORT.—

''(1) REQUIRED CONTENTS.—The Secretary, in consultation with the Secretary of Housing and Urban Development, Indian Tribes, Tribal Organizations, and tribally designated housing entities (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report which sets forth—

''(A) the current Indian sanitation facility priority system of the Service;

''(B) the methodology for determining sanitation deficiencies and needs;

''(C) the criteria on which the deficiencies and needs will be evaluated;

''(D) the level of initial and final sanitation deficiency for each type of sanitation facility for each project of each Indian Tribe or Indian community;

''(E) the amount and most effective use of funds, derived from whatever source, necessary to accommodate the sanitation facilities needs of new homes assisted with funds under the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101 et seq.), and to reduce the identified sanitation deficiency levels of all Indian Tribes and Indian communities to level I sanitation deficiency as defined in paragraph (3)(A); and

''(F) a 10-year plan to provide sanitation facilities to serve existing Indian homes and Indian communities and new and renovated Indian homes.

''(2) UNIFORM METHODOLOGY.—The methodology used by the Secretary in determining, preparing cost estimates for, and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian Tribes and Indian communities.

''(3) SANITATION DEFICIENCY LEVELS.—For purposes of this subsection, the sanitation deficiency levels for an individual, Indian Tribe, or Indian community sanitation facility to serve Indian homes are determined as follows:

''(A) A level I deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community—

''(i) complies with all applicable water supply, pollution control, and solid waste disposal laws; and

''(ii) deficiencies relate to routine replacement, repair, or maintenance needs.

''(B) A level II deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community substantially or recently complied with all applicable water supply, pollution control, and solid waste laws and any deficiencies relate to—

''(i) small or minor capital improvements needed to bring the facility back into compliance;

''(ii) capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs for domestic sanitation facilities; or

''(iii) the lack of equipment or training by an Indian Tribe, Tribal Organization, or an Indian community to properly operate and maintain the sanitation facilities.

''(C) A level III deficiency exists if a sanitation facility serving an individual, Indian Tribe or Indian community meets 1 or more of the following conditions—

''(i) water or sewer service in the home is provided by a haul system with holding tanks and interior plumbing;

''(ii) major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies; or

''(iii) there is no access to or no approved or permitted solid waste facility available.

''(D) A level IV deficiency exists—

''(i) if a sanitation facility for an individual home, an Indian Tribe, or an Indian community exists but—

''(I) lacks—

''(aa) a safe water supply system; or

''(bb) a waste disposal system;

''(II) contains no piped water or sewer facilities; or

''(III) has become inoperable due to a major component failure; or

''(ii) if only a washeteria or central facility exists in the community.

''(E) A level V deficiency exists in the absence of a sanitation facility, where individual homes do not have access to safe drinking water or adequate wastewater (including sewage) disposal.

''(i) DEFINITIONS.—For purposes of this section, the following terms apply:

''(1) INDIAN COMMUNITY.—The term 'Indian community' means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

''(2) SANITATION FACILITIES.—The terms 'sanitation facility' and 'sanitation facilities' mean safe and adequate water supply systems, sanitary sewage disposal systems, and sanitary solid waste systems (and all related equipment and support infrastructure).

''SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

''(a) DISCRETIONARY AUTHORITY; COVERED ACTIVITIES.—The Secretary, acting through the Service, may utilize the negotiating authority of section 23 of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian Tribes in the State of New York (hereinafter referred to as an 'Indian firm') in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to rules and regulations promulgated by the Secretary, that the project or function to be contracted for will not be satisfactory or that the project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such a finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

''(1) ownership and control by Indians;

''(2) equipment;

''(3) bookkeeping and accounting procedures;

''(4) substantive knowledge of the project or function to be contracted for;

''(5) adequately trained personnel; or

''(6) other necessary components of contract performance.

''(b) PAY RATES.—For the purpose of implementing the provisions of this title, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

''SEC. 304. EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, if the requirements of subsection (c) are met, the Secretary, acting through the Service, is authorized to accept any major expansion, renovation, or modernization by any Indian Tribe or Tribal Organization of any Service facility or of any other Indian health facility operated pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), including—

''(1) any plans or designs for such expansion, renovation, or modernization; and

''(2) any expansion, renovation, or modernization for which funds appropriated under any Federal law were lawfully expended.

''(b) PRIORITY LIST.—

''(1) IN GENERAL.—The Secretary shall maintain a separate priority list to address the needs for increased operating expenses, personnel, or equipment for such facilities. The methodology for establishing priorities shall be developed through regulations. The list of priority facilities will be revised annually in consultation with Indian Tribes and Tribal Organizations.

''(2) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, the priority list maintained pursuant to paragraph (1).

''(c) REQUIREMENTS.—The requirements of this subsection are met with respect to any expansion, renovation, or modernization if—

''(1) the Indian Tribe or Tribal Organization—

''(A) provides notice to the Secretary of its intent to expand, renovate, or modernize; and

''(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel, or equipment; and

''(2) the expansion, renovation, or modernization—

''(A) is approved by the appropriate area Director for Federal facilities; and

''(B) is administered by the Indian Tribe or Tribal Organization in accordance with any

applicable regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

''(d) ADDITIONAL REQUIREMENT FOR EXPANSION.—In addition to the requirements under subsection (c), for any expansion, the Indian Tribe or Tribal Organization shall provide to the Secretary additional information pursuant to regulations, including additional staffing, equipment, and other costs associated with the expansion.

''(e) CLOSURE OR CONVERSION OF FACILITIES.—If any Service facility which has been expanded, renovated, or modernized by an Indian Tribe or Tribal Organization under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation, or modernization is completed, such Indian Tribe or Tribal Organization shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation, or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such expansion, renovation, or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation, or modernization.

''SEC. 305. FUNDING FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES.

''(a) GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall make grants to Indian Tribes and Tribal Organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons pursuant to subsections (b)(2) and (c)(1)(C)). A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

''(2) GRANT AGREEMENT REQUIRED.—A grant under paragraph (1) may only be made available to a Tribal Health Program operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian Tribe or Tribal Organization).

''(b) USE OF GRANT FUNDS.—

''(1) ALLOWABLE USES.—A grant awarded under this section may be used for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

''(A) located apart from a hospital;

''(B) not funded under section 301 or section 306; and

''(C) which, upon completion of such construction or modernization will—

''(i) have a total capacity appropriate to its projected service population;

''(ii) provide annually no fewer than 150 patient visits by eligible Indians and other users who are eligible for services in such facility in accordance with section 807(c)(2); and

''(iii) provide ambulatory care in a Service Area (specified in the contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) with a population of no fewer than 1,500 eligible Indians and other users who are eligible for services in such facility in accordance with section 807(c)(2).

''(2) ADDITIONAL ALLOWABLE USE.—The Secretary may also reserve a portion of the funding provided under this section and use those reserved funds to reduce an outstanding debt incurred by Indian Tribes or Tribal Organizations for the construction, expansion, or modernization of an ambulatory care facility that meets the requirements under paragraph (1). The provisions of this section shall apply, except that such applications for funding under this paragraph shall be considered separately from applications for funding under paragraph (1).

''(3) USE ONLY FOR CERTAIN PORTION OF COSTS.—A grant provided under this section may be used only for the cost of that portion of a construction, expansion, or modernization project that benefits the Service population identified above in subsection (b)(1)(C)(ii) and (iii). The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to an Indian Tribe or Tribal Organization applying for a grant under this section for a health care facility located or to be constructed on an island or when such facility is not located on a road system providing direct access to an inpatient hospital where care is available to the Service population.

''(c) GRANTS.—

''(1) APPLICATION.—No grant may be made under this section unless an application or proposal for the grant has been approved by the Secretary in accordance with applicable regulations and has set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out using a grant received under this section—

''(A) adequate financial support will be available for the provision of services at such facility;

''(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

''(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

''(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to Indian Tribes and Tribal Organizations that demonstrate—

''(A) a need for increased ambulatory care services; and

''(B) insufficient capacity to deliver such services.

''(3) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and proposals and to advise the Secretary regarding such applications using the criteria developed pursuant to subsection (a)(1).

''(d) REVERSION OF FACILITIES.—If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be used for the purposes of providing health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian Tribe or Tribal Organization.

''(e) FUNDING NONRECURRING.—Funding provided under this section shall be nonrecurring and shall not be available for inclusion in any individual Indian Tribe's tribal share for an award under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or for reallocation or redesign thereunder.

''SEC. 306. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.

''(a) IN GENERAL.—The Secretary, acting through the Service, is authorized to carry out, or to enter into construction agreements under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) with Indian Tribes or Tribal Organizations to carry out, a health care delivery demonstration project to test alternative means of delivering health care and services to Indians through facilities.

''(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize such construction agreements for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

''(1) waive any leasing prohibition;

''(2) permit carryover of funds appropriated for the provision of health care services;

''(3) permit the use of other available funds;

''(4) permit the use of funds or property donated from any source for project purposes;

''(5) provide for the reversion of donated real or personal property to the donor; and

''(6) permit the use of Service funds to match other funds, including Federal funds.

''(c) HEALTH CARE DEMONSTRATION PROJECTS.—

''(1) GENERAL PROJECTS.—

''(A) CRITERIA.—The Secretary may approve under this section demonstration projects that meet the following criteria:

''(i) There is a need for a new facility or program, such as a program for convenient care services, or the reorientation of an existing facility or program.

''(ii) A significant number of Indians, including Indians with low health status, will be served by the project.

''(iii) The project has the potential to deliver services in an efficient and effective manner.

''(iv) The project is economically viable.

''(v) For projects carried out by an Indian Tribe or Tribal Organization, the Indian Tribe or Tribal Organization has the administrative and financial capability to administer the project.

''(vi) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services in order to expand the availability of services.

''(B) PRIORITY.—In approving demonstration projects under this paragraph, the Secretary shall give priority to demonstration projects, to the extent the projects meet the criteria described in subparagraph (A), located in any of the following Service Units:

''(i) Cass Lake, Minnesota.

''(ii) Mescalero, New Mexico.

''(iii) Owyhee, Nevada.

''(iv) Schurz, Nevada.

''(v) Ft. Yuma, California.

''(2) CONVENIENT CARE SERVICE PROJECTS.—

''(A) DEFINITION OF CONVENIENT CARE SERVICE.—In this paragraph, the term 'convenient care service' means any primary health care service, such as urgent care services, nonemergent care services, prevention services and screenings, and any service authorized by sections 203 or 213(d), that is—

''(i) provided outside the regular hours of operation of a health care facility; or

''(ii) offered at an alternative setting, including through telehealth.

''(B) APPROVAL.—In addition to projects described in paragraph (1), in any fiscal year, the Secretary is authorized to approve not more than 10 applications for health care delivery demonstration projects that—

''(i) include a convenient care services program as an alternative means of delivering health care services to Indians; and

''(ii) meet the criteria described in subparagraph (C).

''(C) CRITERIA.—The Secretary shall approve under subparagraph (B) demonstration projects that meet all of the following criteria:

''(i) The criteria set forth in paragraph (1)(A).

''(ii) There is a lack of access to health care services at existing health care facilities, which may be due to limited hours of operation at those facilities or other factors.

''(iii) The project—

''(I) expands the availability of services; or

''(II) reduces—

''(aa) the burden on Contract Health Services; or

''(bb) the need for emergency room visits.

''(d) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications using the criteria described in paragraphs (1)(A) and (2)(C) of subsection (c).

''(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with this section.

''(f) SERVICE TO INELIGIBLE PERSONS.—Subject to section 807, the authority to provide services to persons otherwise ineligible for the health care benefits of the Service, and the authority to extend hospital privileges in Service facilities to non-Service health practitioners as provided in section 807, may be included, subject to the terms of that section, in any demonstration project approved pursuant to this section.

''(g) EQUITABLE TREATMENT.—For purposes of subsection (c), the Secretary, in evaluating facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), shall use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

''(h) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, renovation, and expansion needs of Service and non-Service facilities that are the subject of a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) for health services are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

''SEC. 307. LAND TRANSFER.

''Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

''SEC. 308. LEASES, CONTRACTS, AND OTHER AGREEMENTS.

''The Secretary, acting through the Service, may enter into leases, contracts, and other agreements with Indian Tribes and Tribal Organizations which hold (1) title to, (2) a leasehold interest in, or (3) a beneficial interest in (when title is held by the United States in trust for the benefit of an Indian Tribe) facilities used or to be used for the administration and delivery of health services by an Indian Health Program. Such leases, contracts, or agreements may include provisions for construction or renovation and provide for compensation to the Indian Tribe or Tribal Organization of rental and other costs consistent with section 105(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(l)) and regulations thereunder.

''SEC. 309. STUDY ON LOANS, LOAN GUARANTEES, AND LOAN REPAYMENT.

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Treasury, Indian Tribes, and Tribal Organizations, shall carry out a study to determine the feasibility of establishing a loan fund to provide to Indian Tribes and Tribal Organizations direct loans or guarantees for loans for the construction of health care facilities, including—

''(1) inpatient facilities;

''(2) outpatient facilities;

''(3) staff quarters; and

''(4) specialized care facilities, such as behavioral health and elder care facilities.

''(b) DETERMINATIONS.—In carrying out the study under subsection (a), the Secretary shall determine—

''(1) the maximum principal amount of a loan or loan guarantee that should be offered to a recipient from the loan fund;

''(2) the percentage of eligible costs, not to exceed 100 percent, that may be covered by a loan or loan guarantee from the loan fund (including costs relating to planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, and other facility-related costs and capital purchase (but excluding staffing));

''(3) the cumulative total of the principal of direct loans and loan guarantees, respectively, that may be outstanding at any 1 time;

''(4) the maximum term of a loan or loan guarantee that may be made for a facility from the loan fund;

''(5) the maximum percentage of funds from the loan fund that should be allocated for payment of costs associated with planning and applying for a loan or loan guarantee;

''(6) whether acceptance by the Secretary of an assignment of the revenue of an Indian Tribe or Tribal Organization as security for any direct loan or loan guarantee from the loan fund would be appropriate;

''(7) whether, in the planning and design of health facilities under this section, users eligible under section 807(c) may be included in any projection of patient population;

''(8) whether funds of the Service provided through loans or loan guarantees from the loan fund should be eligible for use in matching other Federal funds under other programs;

''(9) the appropriateness of, and best methods for, coordinating the loan fund with the health care priority system of the Service under section 301; and

''(10) any legislative or regulatory changes required to implement recommendations of the Secretary based on results of the study.

''(c) REPORT.—Not later than September 30, 2009, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and the Committee on Energy and Commerce of the House of Representatives a report that describes—

''(1) the manner of consultation made as required by subsection (a); and

''(2) the results of the study, including any recommendations of the Secretary based on results of the study.

''SEC. 310. TRIBAL LEASING.

''A Tribal Health Program may lease permanent structures for the purpose of providing health care services without obtaining advance approval in appropriation Acts.

''SEC. 311. INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall make arrangements with Indian Tribes and Tribal Organizations to establish joint venture demonstration projects under which an Indian Tribe or Tribal Organization shall expend tribal, private, or other available funds, for the acquisition or construction of a health facility for a minimum of 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. An Indian Tribe or Tribal Organization may use tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under a joint venture entered into under this subsection. An Indian Tribe or Tribal Organization shall be eligible to establish a joint venture project if, when it submits a letter of intent, it—

''(1) has begun but not completed the process of acquisition or construction of a health facility to be used in the joint venture project; or

''(2) has not begun the process of acquisition or construction of a health facility for use in the joint venture project.

''(b) REQUIREMENTS.—The Secretary shall make such an arrangement with an Indian Tribe or Tribal Organization only if—

''(1) the Secretary first determines that the Indian Tribe or Tribal Organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the relevant health facility; and

''(2) the Indian Tribe or Tribal Organization meets the need criteria determined using the criteria developed under the health care facility priority system under section 301, unless the Secretary determines, pursuant to regulations, that other criteria will result in a more cost-effective and efficient method of facilitating and completing construction of health care facilities.

''(c) CONTINUED OPERATION.—The Secretary shall negotiate an agreement with the Indian Tribe or Tribal Organization regarding the continued operation of the facility at the end of the initial 10 year no-cost lease period.

''(d) BREACH OF AGREEMENT.—An Indian Tribe or Tribal Organization that has entered into a written agreement with the Secretary under this section, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the Indian Tribe or Tribal Organization, or paid to a third party on the Indian Tribe's or Tribal Organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies) and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, personnel, or staffing.

''(e) RECOVERY FOR NONUSE.—An Indian Tribe or Tribal Organization that has entered into a written agreement with the Secretary under this subsection shall be entitled to recover from the United States an amount that is proportional to the value of such facility if, at any time within the 10-year term of the agreement, the Service ceases to use the facility or otherwise breaches the agreement.

''(f) DEFINITION.—For the purposes of this section, the term 'health facility' or 'health facilities' includes quarters needed to provide housing for staff of the relevant Tribal Health Program.

''SEC. 312. LOCATION OF FACILITIES.

''(a) IN GENERAL.—In all matters involving the reorganization or development of Service facilities or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, the Bureau of Indian Affairs and the Service shall give priority to locating such facilities and projects on Indian lands, or lands in Alaska owned by any Alaska Native village, or village or regional corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or any land allotted to any Alaska Native, if requested by the Indian owner and the Indian Tribe with jurisdiction over such lands or other lands

owned or leased by the Indian Tribe or Tribal Organization. Top priority shall be given to Indian land owned by 1 or more Indian Tribes.

''(b) DEFINITION.—For purposes of this section, the term 'Indian lands' means—

''(1) all lands within the exterior boundaries of any reservation; and

''(2) any lands title to which is held in trust by the United States for the benefit of any Indian Tribe or individual Indian or held by any Indian Tribe or individual Indian subject to restriction by the United States against alienation.

''SEC. 313. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.

''(a) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report which identifies the backlog of maintenance and repair work required at both Service and tribal health care facilities, including new health care facilities expected to be in operation in the next fiscal year. The report shall also identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

''(b) MAINTENANCE OF NEWLY CONSTRUCTED SPACE.—The Secretary, acting through the Service, is authorized to expend maintenance and improvement funds to support maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Indian Tribe or Tribal Organization. Supportable space allocation shall be defined through the health care facility priority system under section 301(c).

''(c) REPLACEMENT FACILITIES.—In addition to using maintenance and improvement funds for renovation, modernization, and expansion of facilities, an Indian Tribe or Tribal Organization may use maintenance and improvement funds for construction of a replacement facility if the costs of renovation of such facility would exceed a maximum renovation cost threshold. The maximum renovation cost threshold shall be determined through the negotiated rulemaking process provided for under section 802.

''SEC. 314. TRIBAL MANAGEMENT OF FEDERALLY-OWNED QUARTERS.

''(a) RENTAL RATES.—

''(1) ESTABLISHMENT.—Notwithstanding any other provision of law, a Tribal Health Program which operates a hospital or other health facility and the federally-owned quarters associated therewith pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall have the authority to establish the rental rates charged to the occupants of such quarters by providing notice to the Secretary of its election to exercise such authority.

''(2) OBJECTIVES.—In establishing rental rates pursuant to authority of this subsection, a Tribal Health Program shall endeavor to achieve the following objectives:

''(A) To base such rental rates on the reasonable value of the quarters to the occupants thereof.

''(B) To generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and subject to the discretion of the Tribal Health Program, to supply reserve funds for capital repairs and replacement of the quarters.

''(3) EQUITABLE FUNDING.—Any quarters whose rental rates are established by a Tribal Health Program pursuant to this subsection shall remain eligible for quarters improvement and repair funds to the same extent as all federally-owned quarters used to house personnel in Services-supported programs.

''(4) NOTICE OF RATE CHANGE.—A Tribal Health Program which exercises the authority provided under this subsection shall provide occupants with no less than 60 days notice of any change in rental rates.

''(b) DIRECT COLLECTION OF RENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, and subject to paragraph (2), a Tribal Health Program shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

''(A) The Tribal Health Program shall notify the Secretary and the subject Federal employees of its election to exercise its authority to collect rents directly from such Federal employees.

''(B) Upon receipt of a notice described in subparagraph (A), the Federal employees shall pay rents for occupancy of such quarters directly to the Tribal Health Program and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise.

''(C) Such rent payments shall be retained by the Tribal Health Program and shall not be made payable to or otherwise be deposited with the United States.

''(D) Such rent payments shall be deposited into a separate account which shall be used by the Tribal Health Program for the maintenance (including capital repairs and replacement) and operation of the quarters and facilities as the Tribal Health Program shall determine.

''(2) RETROCESSION OF AUTHORITY.—If a Tribal Health Program which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying federally-owned quarters, such retrocession shall become effective on the earlier of—

''(A) the first day of the month that begins no less than 180 days after the Tribal Health Program notifies the Secretary of its desire to retrocede; or

''(B) such other date as may be mutually agreed by the Secretary and the Tribal Health Program.

''(c) RATES IN ALASKA.—To the extent that a Tribal Health Program, pursuant to authority granted in subsection (a), establishes rental rates for federally-owned quarters provided to a Federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

''SEC. 315. APPLICABILITY OF BUY AMERICAN ACT REQUIREMENT.

''(a) APPLICABILITY.—The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to section 317. Indian Tribes and Tribal Organizations shall be exempt from these requirements.

''(b) EFFECT OF VIOLATION.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to section 317, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

''(c) DEFINITIONS.—For purposes of this section, the term 'Buy American Act' means title III of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933 (41 U.S.C. 10a et seq.).

''SEC. 316. OTHER FUNDING FOR FACILITIES.

''(a) AUTHORITY TO ACCEPT FUNDS.—The Secretary is authorized to accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design, and construct health care facilities for Indians and to place such funds into a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). Receipt of such funds shall have no effect on the priorities established pursuant to section 301.

''(b) INTERAGENCY AGREEMENTS.—The Secretary is authorized to enter into interagency agreements with other Federal agencies or State agencies and other entities and to accept funds from such Federal or State agencies or other sources to provide for the planning, design, and construction of health care facilities to be administered by Indian Health Programs in order to carry out the purposes of this Act and the purposes for which the funds were appropriated or for which the funds were otherwise provided.

''(c) ESTABLISHMENT OF STANDARDS.—The Secretary, through the Service, shall establish standards by regulation for the planning, design, and construction of health care facilities serving Indians under this Act.

''SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2017 to carry out this title.

''TITLE IV—ACCESS TO HEALTH SERVICES

''SEC. 401. TREATMENT OF PAYMENTS UNDER SOCIAL SECURITY ACT HEALTH BENEFITS PROGRAMS.

''(a) DISREGARD OF MEDICARE, MEDICAID, AND SCHIP PAYMENTS IN DETERMINING APPROPRIATIONS.—Any payments received by an Indian Health Program or by an Urban Indian Organization under title XVIII, XIX, or XXI of the Social Security Act for services provided to Indians eligible for benefits under such respective titles shall not be considered in determining appropriations for the provision of health care and services to Indians.

''(b) NONPREFERENTIAL TREATMENT.—Nothing in this Act authorizes the Secretary to provide services to an Indian with coverage under title XVIII, XIX, or XXI of the Social Security Act in preference to an Indian without such coverage.

''(c) USE OF FUNDS.—

''(1) SPECIAL FUND.—

''(A) 100 PERCENT PASS-THROUGH OF PAYMENTS DUE TO FACILITIES.—Notwithstanding any other provision of law, but subject to paragraph (2), payments to which a facility of the Service is entitled by reason of a provision of the Social Security Act shall be placed in a special fund to be held by the Secretary. In making payments from such fund, the Secretary shall ensure that each Service Unit of the Service receives 100 percent of the amount to which the facilities of the Service, for which such Service Unit makes collections, are entitled by reason of a provision of the Social Security Act.

''(B) USE OF FUNDS.—Amounts received by a facility of the Service under subparagraph (A) shall first be used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service operated by or through such facility which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act. Any amounts so received that are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to consultation with the Indian Tribes being served

by the Service Unit, be used for reducing the health resource deficiencies (as determined under section 201(d)) of such Indian Tribes.

''(2) DIRECT PAYMENT OPTION.—Paragraph (1) shall not apply to a Tribal Health Program upon the election of such Program under subsection (d) to receive payments directly. No payment may be made out of the special fund described in such paragraph with respect to reimbursement made for services provided by such Program during the period of such election.

''(d) DIRECT BILLING.—

''(1) IN GENERAL.—Subject to complying with the requirements of paragraph (2), a Tribal Health Program may elect to directly bill for, and receive payment for, health care items and services provided by such Program for which payment is made under title XVIII or XIX of the Social Security Act or from any other third party payor.

''(2) DIRECT REIMBURSEMENT.—

''(A) USE OF FUNDS.—Each Tribal Health Program making the election described in paragraph (1) with respect to a program under a title of the Social Security Act shall be reimbursed directly by that program for items and services furnished without regard to subsection (c)(1), but all amounts so reimbursed shall be used by the Tribal Health Program for the purpose of making any improvements in facilities of the Tribal Health Program that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to such items and services under the program under such title and to provide additional health care services, improvements in health care facilities and Tribal Health Programs, any health care related purpose, or otherwise to achieve the objectives provided in section 3 of this Act.

''(B) AUDITS.—The amounts paid to a Tribal Health Program making the election described in paragraph (1) with respect to a program under a title of the Social Security Act shall be subject to all auditing requirements applicable to the program under such title, as well as all auditing requirements applicable to programs administered by an Indian Health Program. Nothing in the preceding sentence shall be construed as limiting the application of auditing requirements applicable to amounts paid under title XVIII, XIX, or XXI of the Social Security Act.

''(C) IDENTIFICATION OF SOURCE OF PAYMENTS.—Any Tribal Health Program that receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act, shall provide to the Service a list of each provider enrollment number (or other identifier) under which such Program receives such reimbursements or payments.

''(3) EXAMINATION AND IMPLEMENTATION OF CHANGES.—

''(A) IN GENERAL.—The Secretary, acting through the Service and with the assistance of the Administrator of the Centers for Medicare & Medicaid Services, shall examine on an ongoing basis and implement any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this subsection, including any agreements with States that may be necessary to provide for direct billing under a program under a title of the Social Security Act.

''(B) COORDINATION OF INFORMATION.—The Service shall provide the Administrator of the Centers for Medicare & Medicaid Services with copies of the lists submitted to the Service under paragraph (2)(C), enrollment data regarding patients served by the Service (and by Tribal Health Programs, to the extent such data is available to the Service), and such other information as the Administrator may require for purposes of administering title XVIII, XIX, or XXI of the Social Security Act.

''(4) WITHDRAWAL FROM PROGRAM.—A Tribal Health Program that bills directly under the program established under this subsection may withdraw from participation in the same manner and under the same conditions that an Indian Tribe or Tribal Organization may retrocede a contracted program to the Secretary under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this subsection shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

''(5) TERMINATION FOR FAILURE TO COMPLY WITH REQUIREMENTS.—The Secretary may terminate the participation of a Tribal Health Program or in the direct billing program established under this subsection if the Secretary determines that the Program has failed to comply with the requirements of paragraph (2). The Secretary shall provide a Tribal Health Program with notice of a determination that the Program has failed to comply with any such requirement and a reasonable opportunity to correct such noncompliance prior to terminating the Program's participation in the direct billing program established under this subsection.

''(e) RELATED PROVISIONS UNDER THE SOCIAL SECURITY ACT.—For provisions related to subsections (c) and (d), see sections 1880, 1911, and 2107(e)(1)(D) of the Social Security Act.

''SEC. 402. GRANTS TO AND CONTRACTS WITH THE SERVICE, INDIAN TRIBES, TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS TO FACILITATE OUTREACH, ENROLLMENT, AND COVERAGE OF INDIANS UNDER SOCIAL SECURITY ACT HEALTH BENEFIT PROGRAMS AND OTHER HEALTH BENEFITS PROGRAMS.

''(a) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—From funds appropriated to carry out this title in accordance with section 417, the Secretary, acting through the Service, shall make grants to or enter into contracts with Indian Tribes and Tribal Organizations to assist such Tribes and Tribal Organizations in establishing and administering programs on or near reservations and trust lands, including programs to provide outreach and enrollment through video, electronic delivery methods, or telecommunication devices that allow real-time or time-delayed communication between individual Indians and the benefit program, to assist individual Indians—

''(1) to enroll for benefits under a program established under title XVIII, XIX, or XXI of the Social Security Act and other health benefits programs; and

''(2) with respect to such programs for which the charging of premiums and cost sharing is not prohibited under such programs, to pay premiums or cost sharing for coverage for such benefits, which may be based on financial need (as determined by the Indian Tribe or Tribes or Tribal Organizations being served based on a schedule of income levels developed or implemented by such Tribe, Tribes, or Tribal Organizations).

''(b) CONDITIONS.—The Secretary, acting through the Service, shall place conditions as deemed necessary to effect the purpose of this section in any grant or contract which the Secretary makes with any Indian Tribe or Tribal Organization pursuant to this section. Such conditions shall include requirements that the Indian Tribe or Tribal Organization successfully undertake—

''(1) to determine the population of Indians eligible for the benefits described in subsection (a);

''(2) to educate Indians with respect to the benefits available under the respective programs;

''(3) to provide transportation for such individual Indians to the appropriate offices for enrollment or applications for such benefits; and

''(4) to develop and implement methods of improving the participation of Indians in receiving benefits under such programs.

''(c) APPLICATION TO URBAN INDIAN ORGANIZATIONS.—

''(1) IN GENERAL.—The provisions of subsection (a) shall apply with respect to grants and other funding to Urban Indian Organizations with respect to populations served by such organizations in the same manner they apply to grants and contracts with Indian Tribes and Tribal Organizations with respect to programs on or near reservations.

''(2) REQUIREMENTS.—The Secretary shall include in the grants or contracts made or provided under paragraph (1) requirements that are—

''(A) consistent with the requirements imposed by the Secretary under subsection (b);

''(B) appropriate to Urban Indian Organizations and Urban Indians; and

''(C) necessary to effect the purposes of this section.

''(d) FACILITATING COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall develop and disseminate best practices that will serve to facilitate cooperation with, and agreements between, States and the Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations with respect to the provision of health care items and services to Indians under the programs established under title XVIII, XIX, or XXI of the Social Security Act.

''(e) AGREEMENTS RELATING TO IMPROVING ENROLLMENT OF INDIANS UNDER SOCIAL SECURITY ACT HEALTH BENEFITS PROGRAMS.—For provisions relating to agreements between the Secretary, acting through the Service, and Indian Tribes, Tribal Organizations, and Urban Indian Organizations for the collection, preparation, and submission of applications by Indians for assistance under the Medicaid and State children's health insurance programs established under titles XIX and XXI of the Social Security Act, and benefits under the Medicare program established under title XVIII of such Act, see subsections (a) and (b) of section 1139 of the Social Security Act.

''(f) DEFINITION OF PREMIUMS AND COST SHARING.—In this section:

''(1) PREMIUM.—The term 'premium' includes any enrollment fee or similar charge.

''(2) COST SHARING.—The term 'cost sharing' includes any deduction, deductible, copayment, coinsurance, or similar charge.

''SEC. 403. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.

''(a) RIGHT OF RECOVERY.—Except as provided in subsection (f), the United States, an Indian Tribe, or Tribal Organization shall have the right to recover from an insurance company, health maintenance organization, employee benefit plan, third-party tortfeasor, or any other responsible or liable third party (including a political subdivision or local governmental entity of a State) the reasonable charges billed by the Secretary, an Indian Tribe, or Tribal Organization in providing health services through the Service, an Indian Tribe, or Tribal Organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive damages, reimbursement, or indemnification for such charges or expenses if—

''(1) such services had been provided by a nongovernmental provider; and

''(2) such individual had been required to pay such charges or expenses and did pay such charges or expenses.

''(b) LIMITATIONS ON RECOVERIES FROM STATES.—Subsection (a) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under—

''(1) workers' compensation laws; or

''(2) a no-fault automobile accident insurance plan or program.

''(c) NONAPPLICATION OF OTHER LAWS.—No law of any State, or of any political subdivision of a State and no provision of any contract, insurance or health maintenance organization policy, employee benefit plan, self-insurance plan, managed care plan, or other health care plan or program entered into or renewed after the date of the enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States, an Indian Tribe, or Tribal Organization under subsection (a).

''(d) NO EFFECT ON PRIVATE RIGHTS OF ACTION.—No action taken by the United States, an Indian Tribe, or Tribal Organization to enforce the right of recovery provided under this section shall operate to deny to the injured person the recovery for that portion of the person's damage not covered hereunder.

''(e) ENFORCEMENT.—

''(1) IN GENERAL.—The United States, an Indian Tribe, or Tribal Organization may enforce the right of recovery provided under subsection (a) by—

''(A) intervening or joining in any civil action or proceeding brought—

''(i) by the individual for whom health services were provided by the Secretary, an Indian Tribe, or Tribal Organization; or

''(ii) by any representative or heirs of such individual, or

''(B) instituting a civil action, including a civil action for injunctive relief and other relief and including, with respect to a political subdivision or local governmental entity of a State, such an action against an official thereof.

''(2) NOTICE.—All reasonable efforts shall be made to provide notice of action instituted under paragraph (1)(B) to the individual to whom health services were provided, either before or during the pendency of such action.

''(3) RECOVERY FROM TORTFEASORS.—

''(A) IN GENERAL.—In any case in which an Indian Tribe or Tribal Organization that is authorized or required under a compact or contract issued pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to furnish or pay for health services to a person who is injured or suffers a disease on or after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008 under circumstances that establish grounds for a claim of liability against the tortfeasor with respect to the injury or disease, the Indian Tribe or Tribal Organization shall have a right to recover from the tortfeasor (or an insurer of the tortfeasor) the reasonable value of the health services so furnished, paid for, or to be paid for, in accordance with the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), to the same extent and under the same circumstances as the United States may recover under that Act.

''(B) TREATMENT.—The right of an Indian Tribe or Tribal Organization to recover under subparagraph (A) shall be independent of the rights of the injured or diseased person served by the Indian Tribe or Tribal Organization.

''(f) LIMITATION.—Absent specific written authorization by the governing body of an Indian Tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the Service), the United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian Tribe, Tribal Organization, or Urban Indian Organization. Where such authorization is provided, the Service may receive and expend such amounts for the provision of additional health services consistent with such authorization.

''(g) COSTS AND ATTORNEYS' FEES.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded its reasonable attorneys' fees and costs of litigation.

''(h) NONAPPLICATION OF CLAIMS FILING REQUIREMENTS.—An insurance company, health maintenance organization, self-insurance plan, managed care plan, or other health care plan or program (under the Social Security Act or otherwise) may not deny a claim for benefits submitted by the Service or by an Indian Tribe or Tribal Organization based on the format in which the claim is submitted if such format complies with the format required for submission of claims under title XVIII of the Social Security Act or recognized under section 1175 of such Act.

''(i) APPLICATION TO URBAN INDIAN ORGANIZATIONS.—The previous provisions of this section shall apply to Urban Indian Organizations with respect to populations served by such Organizations in the same manner they apply to Indian Tribes and Tribal Organizations with respect to populations served by such Indian Tribes and Tribal Organizations.

''(j) STATUTE OF LIMITATIONS.—The provisions of section 2415 of title 28, United States Code, shall apply to all actions commenced under this section, and the references therein to the United States are deemed to include Indian Tribes, Tribal Organizations, and Urban Indian Organizations.

''(k) SAVINGS.—Nothing in this section shall be construed to limit any right of recovery available to the United States, an Indian Tribe, or Tribal Organization under the provisions of any applicable, Federal, State, or Tribal law, including medical lien laws.

"SEC. 404. CREDITING OF REIMBURSEMENTS.

''(a) USE OF AMOUNTS.—

''(1) RETENTION BY PROGRAM.—Except as provided in section 202(f) (relating to the Catastrophic Health Emergency Fund) and section 807 (relating to health services for ineligible persons), all reimbursements received or recovered under any of the programs described in paragraph (2), including under section 807, by reason of the provision of health services by the Service, by an Indian Tribe or Tribal Organization, or by an Urban Indian Organization, shall be credited to the Service, such Indian Tribe or Tribal Organization, or such Urban Indian Organization, respectively, and may be used as provided in section 401. In the case of such a service provided by or through a Service Unit, such amounts shall be credited to such unit and used for such purposes.

''(2) PROGRAMS COVERED.—The programs referred to in paragraph (1) are the following:

''(A) Titles XVIII, XIX, and XXI of the Social Security Act.

''(B) This Act, including section 807.

''(C) Public Law 87–693.

''(D) Any other provision of law.

''(b) NO OFFSET OF AMOUNTS.—The Service may not offset or limit any amount obligated to any Service Unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

"SEC. 405. PURCHASING HEALTH CARE COVERAGE.

''(a) IN GENERAL.—Insofar as amounts are made available under law (including a provision of the Social Security Act, the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), or other law, other than under section 402) to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for health benefits for Service beneficiaries, Indian Tribes, Tribal Organizations, and Urban Indian Organizations may use such amounts to purchase health benefits coverage for such beneficiaries in any manner, including through—

''(1) a tribally owned and operated health care plan;

''(2) a State or locally authorized or licensed health care plan;

''(3) a health insurance provider or managed care organization;

''(4) a self-insured plan; or

''(5) a high deductible or health savings account plan.

The purchase of such coverage by an Indian Tribe, Tribal Organization, or Urban Indian Organization may be based on the financial needs of such beneficiaries (as determined by the Indian Tribe or Tribes being served based on a schedule of income levels developed or implemented by such Indian Tribe or Tribes).

''(b) EXPENSES FOR SELF-INSURED PLAN.—In the case of a self-insured plan under subsection (a)(4), the amounts may be used for expenses of operating the plan, including administration and insurance to limit the financial risks to the entity offering the plan.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as affecting the use of any amounts not referred to in subsection (a).

"SEC. 406. SHARING ARRANGEMENTS WITH FEDERAL AGENCIES.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary may enter into (or expand) arrangements for the sharing of medical facilities and services between the Service, Indian Tribes, and Tribal Organizations and the Department of Veterans Affairs and the Department of Defense.

''(2) CONSULTATION BY SECRETARY REQUIRED.—The Secretary may not finalize any arrangement between the Service and a Department described in paragraph (1) without first consulting with the Indian Tribes which will be significantly affected by the arrangement.

''(b) LIMITATIONS.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

''(1) the priority access of any Indian to health care services provided through the Service and the eligibility of any Indian to receive health services through the Service;

''(2) the quality of health care services provided to any Indian through the Service;

''(3) the priority access of any veteran to health care services provided by the Department of Veterans Affairs;

''(4) the quality of health care services provided by the Department of Veterans Affairs or the Department of Defense; or

''(5) the eligibility of any Indian who is a veteran to receive health services through the Department of Veterans Affairs.

''(c) REIMBURSEMENT.—The Service, Indian Tribe, or Tribal Organization shall be reimbursed by the Department of Veterans Affairs or the Department of Defense (as the case may be) where services are provided through the Service, an Indian Tribe, or a Tribal Organization to beneficiaries eligible for services from either such Department, notwithstanding any other provision of law.

''(d) CONSTRUCTION.—Nothing in this section may be construed as creating any right of a non-Indian veteran to obtain health services from the Service.

"SEC. 407. ELIGIBLE INDIAN VETERAN SERVICES.

''(a) FINDINGS; PURPOSE.—

''(1) FINDINGS.—Congress finds that—

''(A) collaborations between the Secretary and the Secretary of Veterans Affairs regarding the treatment of Indian veterans at facilities of the Service should be encouraged to the maximum extent practicable; and

''(B) increased enrollment for services of the Department of Veterans Affairs by veterans who are members of Indian tribes should be encouraged to the maximum extent practicable.

''(2) PURPOSE.—The purpose of this section is to reaffirm the goals stated in the document entitled 'Memorandum of Understanding Between the VA/Veterans Health Administration And HHS/Indian Health Service' and dated February 25, 2003 (relating to cooperation and resource sharing between the Veterans Health Administration and Service).

''(b) DEFINITIONS.—In this section:

''(1) ELIGIBLE INDIAN VETERAN.—The term 'eligible Indian veteran' means an Indian or Alaska Native veteran who receives any medical service that is—

''(A) authorized under the laws administered by the Secretary of Veterans Affairs; and

''(B) administered at a facility of the Service (including a facility operated by an Indian tribe or tribal organization through a contract or compact with the Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) pursuant to a local memorandum of understanding.

''(2) LOCAL MEMORANDUM OF UNDERSTANDING.—The term 'local memorandum of understanding' means a memorandum of understanding between the Secretary (or a designee, including the director of any Area Office of the Service) and the Secretary of Veterans Affairs (or a designee) to implement the document entitled 'Memorandum of Understanding Between the VA/Veterans Health Administration And HHS/Indian Health Service' and dated February 25, 2003 (relating to cooperation and resource sharing between the Veterans Health Administration and Indian Health Service).

''(c) ELIGIBLE INDIAN VETERANS' EXPENSES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall provide for veteran-related expenses incurred by eligible Indian veterans as described in subsection (b)(1)(B).

''(2) METHOD OF PAYMENT.—The Secretary shall establish such guidelines as the Secretary determines to be appropriate regarding the method of payments to the Secretary of Veterans Affairs under paragraph (1).

''(d) TRIBAL APPROVAL OF MEMORANDA.—In negotiating a local memorandum of understanding with the Secretary of Veterans Affairs regarding the provision of services to eligible Indian veterans, the Secretary shall consult with each Indian tribe that would be affected by the local memorandum of understanding.

''(e) FUNDING.—

''(1) TREATMENT.—Expenses incurred by the Secretary in carrying out subsection (c)(1) shall not be considered to be Contract Health Service expenses.

''(2) USE OF FUNDS.—Of funds made available to the Secretary in appropriations Acts for the Service (excluding funds made available for facilities, Contract Health Services, or contract support costs), the Secretary shall use such sums as are necessary to carry out this section.

''SEC. 408. PAYOR OF LAST RESORT.

''Indian Health Programs and health care programs operated by Urban Indian Organizations shall be the payor of last resort for services provided to persons eligible for services from Indian Health Programs and Urban Indian Organizations, notwithstanding any Federal, State, or local law to the contrary.

''SEC. 409. NONDISCRIMINATION UNDER FEDERAL HEALTH CARE PROGRAMS IN QUALIFICATIONS FOR REIMBURSEMENT FOR SERVICES.

''(a) REQUIREMENT TO SATISFY GENERALLY APPLICABLE PARTICIPATION REQUIREMENTS.—

''(1) IN GENERAL.—A Federal health care program must accept an entity that is operated by the Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization as a provider eligible to receive payment under the program for health care services furnished to an Indian on the same basis as any other provider qualified to participate as a provider of health care services under the program if the entity meets generally applicable State or other requirements for participation as a provider of health care services under the program.

''(2) SATISFACTION OF STATE OR LOCAL LICENSURE OR RECOGNITION REQUIREMENTS.—Any requirement for participation as a provider of health care services under a Federal health care program that an entity be licensed or recognized under the State or local law where the entity is located to furnish health care services shall be deemed to have been met in the case of an entity operated by the Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization if the entity meets all the applicable standards for such licensure or recognition, regardless of whether the entity obtains a license or other documentation under such State or local law. In accordance with section 221, the absence of the licensure of a health care professional employed by such an entity under the State or local law where the entity is located shall not be taken into account for purposes of determining whether the entity meets such standards, if the professional is licensed in another State.

''(b) APPLICATION OF EXCLUSION FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—

''(1) EXCLUDED ENTITIES.—No entity operated by the Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization that has been excluded from participation in any Federal health care program or for which a license is under suspension or has been revoked by the State where the entity is located shall be eligible to receive payment or reimbursement under any such program for health care services furnished to an Indian.

''(2) EXCLUDED INDIVIDUALS.—No individual who has been excluded from participation in any Federal health care program or whose State license is under suspension shall be eligible to receive payment or reimbursement under any such program for health care services furnished by that individual, directly or through an entity that is otherwise eligible to receive payment for health care services, to an Indian.

''(3) FEDERAL HEALTH CARE PROGRAM DEFINED.—In this subsection, the term, 'Federal health care program' has the meaning given that term in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)), except that, for purposes of this subsection, such term shall include the health insurance program under chapter 89 of title 5, United States Code.

''(c) RELATED PROVISIONS.—For provisions related to nondiscrimination against providers operated by the Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, see section 1139(c) of the Social Security Act (42 U.S.C. 1320b–9(c)).

''SEC. 410. CONSULTATION.

''For provisions related to consultation with representatives of Indian Health Programs and Urban Indian Organizations with respect to the health care programs established under titles XVIII, XIX, and XXI of the Social Security Act, see section 1139(d) of the Social Security Act (42 U.S.C. 1320b–9(d)).

''SEC. 411. STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP).

''For provisions relating to—

''(1) outreach to families of Indian children likely to be eligible for child health assistance under the State children's health insurance program established under title XXI of the Social Security Act, see sections 2105(c)(2)(C) and 1139(a) of such Act (42 U.S.C. 1397ee(c)(2), 1320b–9); and

''(2) ensuring that child health assistance is provided under such program to targeted low-income children who are Indians and that payments are made under such program to Indian Health Programs and Urban Indian Organizations operating in the State that provide such assistance, see sections 2102(b)(3)(D) and 2105(c)(6)(B) of such Act (42 U.S.C. 1397bb(b)(3)(D), 1397ee(c)(6)(B)).

''SEC. 412. EXCLUSION WAIVER AUTHORITY FOR AFFECTED INDIAN HEALTH PROGRAMS AND SAFE HARBOR TRANSACTIONS UNDER THE SOCIAL SECURITY ACT.

''For provisions relating to—

''(1) exclusion waiver authority for affected Indian Health Programs under the Social Security Act, see section 1128(k) of the Social Security Act (42 U.S.C. 1320a–7(k)); and

''(2) certain transactions involving Indian Health Programs deemed to be in safe harbors under that Act, see section 1128B(b)(4) of the Social Security Act (42 U.S.C. 1320a–7b(b)(4)).

''SEC. 413. PREMIUM AND COST SHARING PROTECTIONS AND ELIGIBILITY DETERMINATIONS UNDER MEDICAID AND SCHIP AND PROTECTION OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.

''For provisions relating to—

''(1) premiums or cost sharing protections for Indians furnished items or services directly by Indian Health Programs or through referral under the contract health service under the Medicaid program established under title XIX of the Social Security Act, see sections 1916(j) and 1916A(a)(1) of the Social Security Act (42 U.S.C. 1396o(j), 1396o–1(a)(1));

''(2) rules regarding the treatment of certain property for purposes of determining eligibility under such programs, see sections 1902(e)(13) and 2107(e)(1)(B) of such Act (42 U.S.C. 1396a(e)(13), 1397gg(e)(1)(B)); and

''(3) the protection of certain property from estate recovery provisions under the Medicaid program, see section 1917(b)(3)(B) of such Act (42 U.S.C. 1396p(b)(3)(B)).

''SEC. 414. TREATMENT UNDER MEDICAID AND SCHIP MANAGED CARE.

''For provisions relating to the treatment of Indians enrolled in a managed care entity under the Medicaid program under title XIX of the Social Security Act and Indian Health Programs and Urban Indian Organizations that are providers of items or services to such Indian enrollees, see sections 1932(h) and 2107(e)(1)(H) of the Social Security Act (42 U.S.C. 1396u–2(h), 1397gg(e)(1)(H)).

''SEC. 415. NAVAJO NATION MEDICAID AGENCY FEASIBILITY STUDY.

''(a) STUDY.—The Secretary shall conduct a study to determine the feasibility of treating the Navajo Nation as a State for the purposes of title XIX of the Social Security Act, to provide services to Indians living within the boundaries of the Navajo Nation through an entity established having the same authority and performing the same functions as single-State medicaid agencies responsible for the administration of the State plan under title XIX of the Social Security Act.

''(b) CONSIDERATIONS.—In conducting the study, the Secretary shall consider the feasibility of—

''(1) assigning and paying all expenditures for the provision of services and related administration funds, under title XIX of the Social Security Act, to Indians living within the boundaries of the Navajo Nation that are currently paid to or would otherwise be paid to the State of Arizona, New Mexico, or Utah;

''(2) providing assistance to the Navajo Nation in the development and implementation of such entity for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act;

''(3) providing an appropriate level of matching funds for Federal medical assistance with respect to amounts such entity expends for medical assistance for services and related administrative costs; and

''(4) authorizing the Secretary, at the option of the Navajo Nation, to treat the Navajo Nation as a State for the purposes of title XIX of the Social Security Act (relating to the State children's health insurance program) under terms equivalent to those described in paragraphs (2) through (4).

''(c) REPORT.—Not later then 3 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall submit to the Committee on Indian Affairs and Committee on Finance of the Senate and the Committee on Natural Resources and Committee on Energy and Commerce of the House of Representatives a report that includes—

''(1) the results of the study under this section;

''(2) a summary of any consultation that occurred between the Secretary and the Navajo Nation, other Indian Tribes, the States of Arizona, New Mexico, and Utah, counties which include Navajo Lands, and other interested parties, in conducting this study;

''(3) projected costs or savings associated with establishment of such entity, and any estimated impact on services provided as described in this section in relation to probable costs or savings; and

''(4) legislative actions that would be required to authorize the establishment of such entity if such entity is determined by the Secretary to be feasible.

''SEC. 416. GENERAL EXCEPTIONS.

''The requirements of this title shall not apply to any excepted benefits described in paragraph (1)(A) or (3) of section 2791(c) of the Public Health Service Act (42 U.S.C. 300gg–91).

''SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2017 to carry out this title.

''TITLE V—HEALTH SERVICES FOR URBAN INDIANS

''SEC. 501. PURPOSE.

''The purpose of this title is to establish and maintain programs in Urban Centers to make health services more accessible and available to Urban Indians.

''SEC. 502. CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS.

''Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall enter into contracts with, or make grants to, Urban Indian Organizations to assist such organizations in the establishment and administration, within Urban Centers, of programs which meet the requirements set forth in this title. Subject to section 506, the Secretary, acting through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract into which the Secretary enters with, or in any grant the Secretary makes to, any Urban Indian Organization pursuant to this title.

''SEC. 503. CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.

''(a) REQUIREMENTS FOR GRANTS AND CONTRACTS.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall enter into contracts with, and make grants to, Urban Indian Organizations for the provision of health care and referral services for Urban Indians. Any such contract or grant shall include requirements that the Urban Indian Organization successfully undertake to—

''(1) estimate the population of Urban Indians residing in the Urban Center or centers that the organization proposes to serve who are or could be recipients of health care or referral services;

''(2) estimate the current health status of Urban Indians residing in such Urban Center or centers;

''(3) estimate the current health care needs of Urban Indians residing in such Urban Center or centers;

''(4) provide basic health education, including health promotion and disease prevention education, to Urban Indians;

''(5) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of Urban Indians; and

''(6) where necessary, provide, or enter into contracts for the provision of, health care services for Urban Indians.

''(b) CRITERIA.—The Secretary, acting through the Service, shall, by regulation, prescribe the criteria for selecting Urban Indian Organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

''(1) the extent of unmet health care needs of Urban Indians in the Urban Center or centers involved;

''(2) the size of the Urban Indian population in the Urban Center or centers involved;

''(3) the extent, if any, to which the activities set forth in subsection (a) would duplicate any project funded under this title, or under any current public health service project funded in a manner other than pursuant to this title;

''(4) the capability of an Urban Indian Organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

''(5) the satisfactory performance and successful completion by an Urban Indian Organization of other contracts with the Secretary under this title;

''(6) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an Urban Center or centers; and

''(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

''(c) ACCESS TO HEALTH PROMOTION AND DISEASE PREVENTION PROGRAMS.—The Secretary, acting through the Service, shall facilitate access to or provide health promotion and disease prevention services for Urban Indians through grants made to Urban Indian Organizations administering contracts entered into or receiving grants under subsection (a).

''(d) IMMUNIZATION SERVICES.—

''(1) ACCESS OR SERVICES PROVIDED.—The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for Urban Indians through grants made to Urban Indian Organizations administering contracts entered into or receiving grants under this section.

''(2) DEFINITION.—For purposes of this subsection, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

''(e) BEHAVIORAL HEALTH SERVICES.—

''(1) ACCESS OR SERVICES PROVIDED.—The Secretary, acting through the Service, shall facilitate access to, or provide, behavioral health services for Urban Indians through grants made to Urban Indian Organizations administering contracts entered into or receiving grants under subsection (a).

''(2) ASSESSMENT REQUIRED.—Except as provided by paragraph (3)(A), a grant may not be made under this subsection to an Urban Indian Organization until that organization has prepared, and the Service has approved, an assessment of the following:

''(A) The behavioral health needs of the Urban Indian population concerned.

''(B) The behavioral health services and other related resources available to that population.

''(C) The barriers to obtaining those services and resources.

''(D) The needs that are unmet by such services and resources.

''(3) PURPOSES OF GRANTS.—Grants may be made under this subsection for the following:

''(A) To prepare assessments required under paragraph (2).

''(B) To provide outreach, educational, and referral services to Urban Indians regarding the availability of direct behavioral health services, to educate Urban Indians about behavioral health issues and services, and effect coordination with existing behavioral health providers in order to improve services to Urban Indians.

''(C) To provide outpatient behavioral health services to Urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment.

''(D) To develop innovative behavioral health service delivery models which incorporate Indian cultural support systems and resources.

''(f) PREVENTION OF CHILD ABUSE.—

''(1) ACCESS OR SERVICES PROVIDED.—The Secretary, acting through the Service, shall facilitate access to or provide services for Urban Indians through grants to Urban Indian Organizations administering contracts entered into or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among Urban Indians.

''(2) EVALUATION REQUIRED.—Except as provided by paragraph (3)(A), a grant may not be made under this subsection to an Urban Indian Organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the Urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

''(3) PURPOSES OF GRANTS.—Grants may be made under this subsection for the following:

''(A) To prepare assessments required under paragraph (2).

''(B) For the development of prevention, training, and education programs for Urban Indians, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and

establishing service networks of all those involved in Indian child protection.

''(C) To provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to Urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to Urban Indian perpetrators of child abuse (including sexual abuse).

''(4) CONSIDERATIONS WHEN MAKING GRANTS.—In making grants to carry out this subsection, the Secretary shall take into consideration—

''(A) the support for the Urban Indian Organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

''(B) the capability and expertise demonstrated by the Urban Indian Organization to address the complex problem of child sexual abuse in the community; and

''(C) the assessment required under paragraph (2).

''(g) OTHER GRANTS.—The Secretary, acting through the Service, may enter into a contract with or make grants to an Urban Indian Organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to Urban Indians in more than 1 Urban Center.

''SEC. 504. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.

''(a) GRANTS AND CONTRACTS AUTHORIZED.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, may enter into contracts with or make grants to Urban Indian Organizations situated in Urban Centers for which contracts have not been entered into or grants have not been made under section 503.

''(b) PURPOSE.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (c)(1) in order to assist the Secretary in assessing the health status and health care needs of Urban Indians in the Urban Center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the Urban Indian Organization which the Secretary has entered into a contract with, or made a grant to, under this section.

''(c) GRANT AND CONTRACT REQUIREMENTS.—Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

''(1) the Urban Indian Organization successfully undertakes to—

''(A) document the health care status and unmet health care needs of Urban Indians in the Urban Center involved; and

''(B) with respect to Urban Indians in the Urban Center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 503(b); and

''(2) the Urban Indian Organization complete performance of the contract, or carry out the requirements of the grant, within 1 year after the date on which the Secretary and such organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

''(d) NO RENEWALS.—The Secretary may not renew any contract entered into or grant made under this section.

''SEC. 505. EVALUATIONS; RENEWALS.

''(a) PROCEDURES FOR EVALUATIONS.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements and compliance with and performance of contracts entered into by Urban Indian Organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

''(b) EVALUATIONS.—The Secretary, acting through the Service, shall evaluate the compliance of each Urban Indian Organization which has entered into a contract or received a grant under section 503 with the terms of such contract or grant. For purposes of this evaluation, the Secretary shall—

''(1) acting through the Service, conduct an annual onsite evaluation of the organization; or

''(2) accept in lieu of such onsite evaluation evidence of the organization's provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the Medicare program under title XVIII of the Social Security Act.

''(c) NONCOMPLIANCE; UNSATISFACTORY PERFORMANCE.—If, as a result of the evaluations conducted under this section, the Secretary determines that an Urban Indian Organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with the organization the areas of noncompliance or unsatisfactory performance and modify the contract or grant to prevent future occurrences of noncompliance or unsatisfactory performance. If the Secretary determines that the noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew the contract or grant with the organization and is authorized to enter into a contract or make a grant under section 503 with another Urban Indian Organization which is situated in the same Urban Center as the Urban Indian Organization whose contract or grant is not renewed under this section.

''(d) CONSIDERATIONS FOR RENEWALS.—In determining whether to renew a contract or grant with an Urban Indian Organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the Urban Indian Organization, the reports submitted under section 507, and shall consider the results of the onsite evaluations or accreditations under subsection (b).

''SEC. 506. OTHER CONTRACT AND GRANT REQUIREMENTS.

''(a) PROCUREMENT.—Contracts with Urban Indian Organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations relating to procurement except that in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of sections 1304 and 3131 through 3133 of title 40, United States Code.

''(b) PAYMENTS UNDER CONTRACTS OR GRANTS.—

''(1) IN GENERAL.—Payments under any contracts or grants pursuant to this title, notwithstanding any term or condition of such contract or grant—

''(A) may be made in a single advance payment by the Secretary to the Urban Indian Organization by no later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such a single advance payment; and

''(B) if any portion thereof is unexpended by the Urban Indian Organization during the funding period with respect to which the payments initially apply, shall be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during 1 or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the availability for expenditure of such funds.

''(2) SEMIANNUAL AND QUARTERLY PAYMENTS AND REIMBURSEMENTS.—If the Secretary determines under paragraph (1)(A) that an Urban Indian Organization is not capable of administering an entire single advance payment, on request of the Urban Indian Organization, the payments may be made—

''(A) in semiannual or quarterly payments by not later than 30 days after the date on which the funding period with respect to which the payments apply begins; or

''(B) by way of reimbursement.

''(c) REVISION OR AMENDMENT OF CONTRACTS.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request and consent of an Urban Indian Organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

''(d) FAIR AND UNIFORM SERVICES AND ASSISTANCE.—Contracts with or grants to Urban Indian Organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to Urban Indians of services and assistance under such contracts or grants by such organizations.

''SEC. 507. REPORTS AND RECORDS.

''(a) REPORTS.—

''(1) IN GENERAL.—For each fiscal year during which an Urban Indian Organization receives or expends funds pursuant to a contract entered into or a grant received pursuant to this title, such Urban Indian Organization shall submit to the Secretary not more frequently than every 6 months, a report that includes the following:

''(A) In the case of a contract or grant under section 503, recommendations pursuant to section 503(a)(5).

''(B) Information on activities conducted by the organization pursuant to the contract or grant.

''(C) An accounting of the amounts and purpose for which Federal funds were expended.

''(D) A minimum set of data, using uniformly defined elements, as specified by the Secretary after consultation with Urban Indian Organizations.

''(2) HEALTH STATUS AND SERVICES.—

''(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary, acting through the Service and working with a national membership-based consortium of Urban Indian Organizations, shall submit to Congress a report evaluating—

''(i) the health status of Urban Indians;

''(ii) the services provided to Indians pursuant to this title; and

''(iii) areas of unmet needs in the delivery of health services to Urban Indians, including unmet health care facilities needs.

''(B) CONSULTATION AND CONTRACTS.—In preparing the report under paragraph (1), the Secretary—

''(i) shall confer with Urban Indian Organizations; and

''(ii) may enter into a contract with a national organization representing Urban Indian Organizations to conduct any aspect of the report.

''(b) AUDIT.—The reports and records of the Urban Indian Organization with respect to a

contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

''(c) COSTS OF AUDITS.—The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial audit conducted by—

''(1) a certified public accountant; or

''(2) a certified public accounting firm qualified to conduct Federal compliance audits.

''SEC. 508. LIMITATION ON CONTRACT AUTHORITY.

''The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

''SEC. 509. FACILITIES.

''(a) GRANTS.—The Secretary, acting through the Service, may make grants to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order to assist such contractors or grant recipients in complying with applicable licensure or certification requirements.

''(b) LOAN FUND STUDY.—The Secretary, acting through the Service, may carry out a study to determine the feasibility of establishing a loan fund to provide to Urban Indian Organizations direct loans or guarantees for loans for the construction of health care facilities in a manner consistent with section 309, including by submitting a report in accordance with subsection (c) of that section.

''SEC. 510. DIVISION OF URBAN INDIAN HEALTH.

''There is established within the Service a Division of Urban Indian Health, which shall be responsible for—

''(1) carrying out the provisions of this title;

''(2) providing central oversight of the programs and services authorized under this title; and

''(3) providing technical assistance to Urban Indian Organizations working with a national membership-based consortium of Urban Indian Organizations.

''SEC. 511. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE-RELATED SERVICES.

''(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school- and community-based education regarding, alcohol and substance abuse, including fetal alcohol spectrum disorders, in Urban Centers to those Urban Indian Organizations with which the Secretary has entered into a contract under this title or under section 201.

''(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

''(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the following:

''(1) The size of the Urban Indian population.

''(2) Capability of the organization to adequately perform the activities required under the grant.

''(3) Satisfactory performance standards for the organization in meeting the goals set forth in such grant. The standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis.

''(4) Identification of the need for services.

''(d) ALLOCATION OF GRANTS.—The Secretary shall develop a methodology for allocating grants made pursuant to this section based on the criteria established pursuant to subsection (c).

''(e) GRANTS SUBJECT TO CRITERIA.—Any grant received by an Urban Indian Organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

''SEC. 512. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

''Notwithstanding any other provision of law, the Tulsa Clinic and Oklahoma City Clinic demonstration projects shall—

''(1) be permanent programs within the Service's direct care program;

''(2) continue to be treated as Service Units and Operating Units in the allocation of resources and coordination of care; and

''(3) continue to meet the requirements and definitions of an Urban Indian Organization in this Act, and shall not be subject to the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''SEC. 513. URBAN NIAAA TRANSFERRED PROGRAMS.

''(a) GRANTS AND CONTRACTS.—The Secretary, through the Division of Urban Indian Health, shall make grants to, or enter into contracts with, Urban Indian Organizations, to take effect not later than September 30, 2010, for the administration of Urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as 'NIAAA') and transferred to the Service.

''(b) USE OF FUNDS.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for Urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

''(c) ELIGIBILITY.—Urban Indian Organizations that operate Indian alcohol programs originally funded under the NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

''(d) REPORT.—The Secretary shall evaluate and report to Congress on the activities of programs funded under this section not less than every 5 years.

''SEC. 514. CONFERRING WITH URBAN INDIAN ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary shall ensure that the Service confers or conferences, to the greatest extent practicable, with Urban Indian Organizations.

''(b) DEFINITION OF CONFER; CONFERENCE.—In this section, the terms 'confer' and 'conference' mean an open and free exchange of information and opinions that—

''(1) leads to mutual understanding and comprehension; and

''(2) emphasizes trust, respect, and shared responsibility.

''SEC. 515. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.

''(a) CONSTRUCTION AND OPERATION.—

''(1) IN GENERAL.—The Secretary, acting through the Service, through grant or contract, shall fund the construction and operation of at least 1 residential treatment center in each Service Area that meets the eligibility requirements set forth in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to Urban Indian youth in a culturally competent residential setting.

''(2) TREATMENT.—Each residential treatment center described in paragraph (1) shall be in addition to any facilities constructed under section 707(b).

''(b) ELIGIBILITY REQUIREMENTS.—To be eligible to obtain a facility under subsection (a)(1), a Service Area shall meet the following requirements:

''(1) There is an Urban Indian Organization in the Service Area.

''(2) There reside in the Service Area Urban Indian youth with need for alcohol and substance abuse treatment services in a residential setting.

''(3) There is a significant shortage of culturally competent residential treatment services for Urban Indian youth in the Service Area.

''SEC. 516. GRANTS FOR DIABETES PREVENTION, TREATMENT, AND CONTROL.

''(a) GRANTS AUTHORIZED.—The Secretary may make grants to those Urban Indian Organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention and treatment of, and control of the complications resulting from, diabetes among Urban Indians.

''(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

''(c) ESTABLISHMENT OF CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a) relating to—

''(1) the size and location of the Urban Indian population to be served;

''(2) the need for prevention of and treatment of, and control of the complications resulting from, diabetes among the Urban Indian population to be served;

''(3) performance standards for the organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee;

''(4) the capability of the organization to adequately perform the activities required under the grant; and

''(5) the willingness of the organization to collaborate with the registry, if any, established by the Secretary under section 204(e) in the Area Office of the Service in which the organization is located.

''(d) FUNDS SUBJECT TO CRITERIA.—Any funds received by an Urban Indian Organization under this Act for the prevention, treatment, and control of diabetes among Urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).

''SEC. 517. COMMUNITY HEALTH REPRESENTATIVES.

''The Secretary, acting through the Service, may enter into contracts with, and make grants to, Urban Indian Organizations for the employment of Indians trained as health service providers through the Community Health Representatives Program under section 109 in the provision of health care, health promotion, and disease prevention services to Urban Indians.

''SEC. 518. EFFECTIVE DATE.

''The amendments made by the Indian Health Care Improvement Act Amendments of 2008 to this title shall take effect beginning on the date of enactment of that Act, regardless of whether the Secretary has promulgated regulations implementing such amendments.

''SEC. 519. ELIGIBILITY FOR SERVICES.

''Urban Indians shall be eligible for, and the ultimate beneficiaries of, health care or referral services provided pursuant to this title.

''SEC. 520. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2017 to carry out this title.

"TITLE VI—ORGANIZATIONAL IMPROVEMENTS

"SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian Tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

''(2) DIRECTOR.—The Service shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 2008, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.

''(3) INCUMBENT.—The individual serving in the position of Director of the Service on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2008 shall serve as Director.

''(4) ADVOCACY AND CONSULTATION.—The position of Director is established to, in a manner consistent with the government-to-government relationship between the United States and Indian Tribes—

''(A) facilitate advocacy for the development of appropriate Indian health policy; and

''(B) promote consultation on matters relating to Indian health.

''(b) AGENCY.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

''(c) DUTIES.—The Director shall—

''(1) perform all functions that were, on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, carried out by or under the direction of the individual serving as Director of the Service on that day;

''(2) perform all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

''(3) administer all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

''(A) this Act;

''(B) the Act of November 2, 1921 (25 U.S.C. 13);

''(C) the Act of August 5, 1954 (42 U.S.C. 2001 et seq.);

''(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

''(E) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

''(4) administer all scholarship and loan functions carried out under title I;

''(5) directly advise the Secretary concerning the development of all policy- and budget-related matters affecting Indian health;

''(6) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

''(7) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

''(8) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

''(9) coordinate the activities of the Department concerning matters of Indian health; and

''(10) perform such other functions as the Secretary may designate.

''(d) AUTHORITY.—

''(1) IN GENERAL.—The Secretary, acting through the Director, shall have the authority—

''(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

''(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

''(C) to manage, expend, and obligate all funds appropriated for the Service.

''(2) PERSONNEL ACTIONS.—Notwithstanding any other provision of law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

"SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish an automated management information system for the Service.

''(2) REQUIREMENTS OF SYSTEM.—The information system established under paragraph (1) shall include—

''(A) a financial management system;

''(B) a patient care information system for each area served by the Service;

''(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service;

''(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each Area office of the Service;

''(E) an interface mechanism for patient billing and accounts receivable system; and

''(F) a training component.

''(b) PROVISION OF SYSTEMS TO TRIBES AND ORGANIZATIONS.—The Secretary shall provide each Tribal Health Program automated management information systems which—

''(1) meet the management information needs of such Tribal Health Program with respect to the treatment by the Tribal Health Program of patients of the Service; and

''(2) meet the management information needs of the Service.

''(c) ACCESS TO RECORDS.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

''(d) AUTHORITY TO ENHANCE INFORMATION TECHNOLOGY.—The Secretary, acting through the Director, shall have the authority to enter into contracts, agreements, or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian Health Programs and facilities.

"SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2017 to carry out this title.

"TITLE VII—BEHAVIORAL HEALTH PROGRAMS

"SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.

''(a) PURPOSES.—The purposes of this section are as follows:

''(1) To authorize and direct the Secretary, acting through the Service, Indian Tribes and Tribal Organizations to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs.

''(2) To provide information, direction, and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement, and judicial services.

''(3) To assist Indian Tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior.

''(4) To provide authority and opportunities for Indian Tribes and Tribal Organizations to develop, implement, and coordinate with community-based programs which include identification, prevention, education, referral, and treatment services, including through multidisciplinary resource teams.

''(5) To ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access.

''(6) To modify or supplement existing programs and authorities in the areas identified in paragraph (2).

''(b) PLANS.—

''(1) DEVELOPMENT.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall encourage Indian Tribes and Tribal Organizations to develop tribal plans and to participate in developing areawide plans for Indian Behavioral Health Services. The plans shall include, to the extent feasible, the following components:

''(A) An assessment of the scope of alcohol or other substance abuse, mental illness, and dysfunctional and self-destructive behavior, including suicide, child abuse, and family violence, among Indians, including—

''(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; or

''(ii) an estimate of the financial and human cost attributable to such illness or behavior.

''(B) An assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c).

''(C) An estimate of the additional funding needed by the Service, Indian Tribes, and Tribal Organizations to meet their responsibilities under the plans.

''(2) COORDINATION WITH NATIONAL CLEARINGHOUSES AND INFORMATION CENTERS.—The Secretary, acting through the Service, shall coordinate with existing national clearinghouses and information centers to include at the clearinghouses and centers plans and reports on the outcomes of such plans developed by Indian Tribes, Tribal Organizations, and Service Areas relating to behavioral health. The Secretary shall ensure access to these plans and outcomes by any Indian Tribe, Tribal Organization, or the Service.

''(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Indian Tribes and Tribal Organizations in preparation of plans under this section and in developing standards of care that may be used and adopted locally.

''(c) PROGRAMS.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide, to the extent feasible and if funding is available, programs including the following:

''(1) COMPREHENSIVE CARE.—A comprehensive continuum of behavioral health care which provides—

''(A) community-based prevention, intervention, outpatient, and behavioral health aftercare;

''(B) detoxification (social and medical);

''(C) acute hospitalization;

''(D) intensive outpatient/day treatment;

''(E) residential treatment;

''(F) transitional living for those needing a temporary, stable living environment that is supportive of treatment and recovery goals;

''(G) emergency shelter;

''(H) intensive case management;

''(I) diagnostic services; and

''(J) promotion of healthy approaches to risk and safety issues, including injury prevention.

''(2) CHILD CARE.—Behavioral health services for Indians from birth through age 17, including—

''(A) preschool and school age fetal alcohol spectrum disorder services, including assessment and behavioral intervention;

''(B) mental health and substance abuse services (emotional, organic, alcohol, drug, inhalant, and tobacco);

''(C) identification and treatment of co-occurring disorders and comorbidity;

''(D) prevention of alcohol, drug, inhalant, and tobacco use;

''(E) early intervention, treatment, and aftercare; and

''(F) identification and treatment of neglect and physical, mental, and sexual abuse.

''(3) ADULT CARE.—Behavioral health services for Indians from age 18 through 55, including—

''(A) early intervention, treatment, and aftercare;

''(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

''(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

''(D) promotion of healthy approaches for risk-related behavior;

''(E) treatment services for women at risk of a fetal alcohol-exposed pregnancy; and

''(F) sex specific treatment for sexual assault and domestic violence.

''(4) FAMILY CARE.—Behavioral health services for families, including—

''(A) early intervention, treatment, and aftercare for affected families;

''(B) treatment for sexual assault and domestic violence; and

''(C) promotion of healthy approaches relating to parenting, domestic violence, and other abuse issues.

''(5) ELDER CARE.—Behavioral health services for Indians 56 years of age and older, including—

''(A) early intervention, treatment, and aftercare;

''(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

''(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

''(D) promotion of healthy approaches to managing conditions related to aging;

''(E) sex specific treatment for sexual assault, domestic violence, neglect, physical and mental abuse and exploitation; and

''(F) identification and treatment of dementias regardless of cause.

''(d) COMMUNITY BEHAVIORAL HEALTH PLAN.—

''(1) ESTABLISHMENT.—The governing body of any Indian Tribe or Tribal Organization may adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat substance abuse, mental illness, or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members or its service population. This plan should include behavioral health services, social services, intensive outpatient services, and continuing aftercare.

''(2) TECHNICAL ASSISTANCE.—At the request of an Indian Tribe or Tribal Organization, the Bureau of Indian Affairs and the Service shall cooperate with and provide technical assistance to the Indian Tribe or Tribal Organization in the development and implementation of such plan.

''(3) FUNDING.—The Secretary, acting through the Service, may make funding available to Indian Tribes and Tribal Organizations which adopt a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

''(e) COORDINATION FOR AVAILABILITY OF SERVICES.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall coordinate behavioral health planning, to the extent feasible, with other Federal agencies and with State agencies, to encourage comprehensive behavioral health services for Indians regardless of their place of residence.

''(f) MENTAL HEALTH CARE NEED ASSESSMENT.—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

''SEC. 702. MEMORANDA OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

''(a) CONTENTS.—Not later than 12 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary, acting through the Service, and the Secretary of the Interior shall develop and enter into a memoranda of agreement, or review and update any existing memoranda of agreement, as required by section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) under which the Secretaries address the following:

''(1) The scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians.

''(2) The existing Federal, tribal, State, local, and private services, resources, and programs available to provide behavioral health services for Indians.

''(3) The unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1).

''(4)(A) The right of Indians, as citizens of the United States and of the States in which they reside, to have access to behavioral health services to which all citizens have access.

''(B) The right of Indians to participate in, and receive the benefit of, such services.

''(C) The actions necessary to protect the exercise of such right.

''(5) The responsibilities of the Bureau of Indian Affairs and the Service, including mental illness identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and Service Unit, Service Area, and headquarters levels to address the problems identified in paragraph (1).

''(6) A strategy for the comprehensive coordination of the behavioral health services provided by the Bureau of Indian Affairs and the Service to meet the problems identified pursuant to paragraph (1), including—

''(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and Indian Tribes and Tribal Organizations (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.)) with behavioral health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually diagnosed individuals requiring behavioral health and substance abuse treatment; and

''(B) ensuring that the Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services.

''(7) Directing appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and Service Unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412).

''(8) Providing for an annual review of such agreement by the Secretaries which shall be provided to Congress and Indian Tribes and Tribal Organizations.

''(b) SPECIFIC PROVISIONS REQUIRED.—The memoranda of agreement updated or entered into pursuant to subsection (a) shall include specific provisions pursuant to which the Service shall assume responsibility for—

''(1) the determination of the scope of the problem of alcohol and substance abuse among Indians, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

''(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

''(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

''(c) PUBLICATION.—Each memorandum of agreement entered into or renewed (and amendments or modifications thereto) under subsection (a) shall be published in the Federal Register. At the same time as publication in the Federal Register, the Secretary shall provide a copy of such memoranda, amendment, or modification to each Indian Tribe, Tribal Organization, and Urban Indian Organization.

''SEC. 703. COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide a program of comprehensive behavioral health, prevention, treatment, and aftercare, which shall include—

''(A) prevention, through educational intervention, in Indian communities;

''(B) acute detoxification, psychiatric hospitalization, residential, and intensive outpatient treatment;

''(C) community-based rehabilitation and aftercare;

''(D) community education and involvement, including extensive training of health care, educational, and community-based personnel;

''(E) specialized residential treatment programs for high-risk populations, including pregnant and postpartum women and their children; and

''(F) diagnostic services.

''(2) TARGET POPULATIONS.—The target population of such programs shall be members of Indian Tribes. Efforts to train and educate key members of the Indian community shall also target employees of health, education, judicial, law enforcement, legal, and social service programs.

''(b) CONTRACT HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may enter into contracts with public or private providers of behavioral health treatment services for the purpose of carrying out the program required under subsection (a).

''(2) PROVISION OF ASSISTANCE.—In carrying out this subsection, the Secretary shall provide assistance to Indian Tribes and Tribal Organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

''SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary shall establish and maintain a mental health technician program within the Service which—

''(1) provides for the training of Indians as mental health technicians; and

''(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

''(b) PARAPROFESSIONAL TRAINING.—In carrying out subsection (a), the Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide high-standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

''(c) SUPERVISION AND EVALUATION OF TECHNICIANS.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall supervise and evaluate the mental health technicians in the training program.

''(d) TRADITIONAL HEALTH CARE PRACTICES.—The Secretary, acting through the Service, shall ensure that the program established pursuant to this subsection involves the use and promotion of the traditional health care practices of the Indian Tribes to be served.

''SEC. 705. LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.

''(a) IN GENERAL.—Subject to the provisions of section 221, and except as provided in subsection (b), any individual employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under this Act is required to be licensed as a psychologist, social worker, or marriage and family therapist, respectively.

''(b) TRAINEES.—An individual may be employed as a trainee in psychology, social work, or marriage and family therapy to provide mental health care services described in subsection (a) if such individual—

''(1) works under the direct supervision of a licensed psychologist, social worker, or marriage and family therapist, respectively;

''(2) is enrolled in or has completed at least 2 years of course work at a post-secondary, accredited education program for psychology, social work, marriage and family therapy, or counseling; and

''(3) meets such other training, supervision, and quality review requirements as the Secretary may establish.

''SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.

''(a) GRANTS.—The Secretary, consistent with section 701, may make grants to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to develop and implement a comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women, regardless of age.

''(b) USE OF GRANT FUNDS.—A grant made pursuant to this section may be used to—

''(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol spectrum disorders;

''(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

''(3) develop prevention and intervention models for Indian women which incorporate traditional health care practices, cultural values, and community and family involvement.

''(c) CRITERIA.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

''(d) ALLOCATION OF CERTAIN FUNDS.—Twenty percent of the funds appropriated pursuant to this section shall be used to make grants to Urban Indian Organizations.

''SEC. 707. INDIAN YOUTH PROGRAM.

''(a) DETOXIFICATION AND REHABILITATION.—The Secretary, acting through the Service, consistent with section 701, shall develop and implement a program for acute detoxification and treatment for Indian youths, including behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian Tribes or Tribal Organizations at the local level under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

''(b) ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS OR FACILITIES.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an Area Office.

''(B) AREA OFFICE IN CALIFORNIA.—For the purposes of this subsection, the Area Office in California shall be considered to be 2 Area Offices, 1 office whose jurisdiction shall be considered to encompass the northern area of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

''(2) FUNDING.—For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

''(3) LOCATION.—A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the Indian Tribes to be served by such center.

''(4) SPECIFIC PROVISION OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

''(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating, and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

''(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

''(B) PROVISION OF SERVICES TO ELIGIBLE YOUTHS.—Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youths residing in Alaska.

''(c) INTERMEDIATE ADOLESCENT BEHAVIORAL HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may provide intermediate behavioral health services to Indian children and adolescents, including—

''(A) pretreatment assistance;

''(B) inpatient, outpatient, and aftercare services;

''(C) emergency care;

''(D) suicide prevention and crisis intervention; and

''(E) prevention and treatment of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence.

''(2) USE OF FUNDS.—Funds provided under this subsection may be used—

''(A) to construct or renovate an existing health facility to provide intermediate behavioral health services;

''(B) to hire behavioral health professionals;

''(C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate behavioral health services are being provided;

''(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and

''(E) for intensive home- and community-based services.

''(3) CRITERIA.—The Secretary, acting through the Service, shall, in consultation with Indian Tribes and Tribal Organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

''(d) FEDERALLY-OWNED STRUCTURES.—

''(1) IN GENERAL.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall—

''(A) identify and use, where appropriate, federally-owned structures suitable for local residential or regional behavioral health treatment for Indian youths; and

''(B) establish guidelines for determining the suitability of any such federally-owned structure to be used for local residential or regional behavioral health treatment for Indian youths.

''(2) TERMS AND CONDITIONS FOR USE OF STRUCTURE.—Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Indian Tribe or Tribal Organization operating the program.

''(e) REHABILITATION AND AFTERCARE SERVICES.—

''(1) IN GENERAL.—The Secretary, Indian Tribes, or Tribal Organizations, in cooperation with the Secretary of the Interior, shall develop and implement within each Service Unit, community-based rehabilitation and follow-up services for Indian youths who are having significant behavioral health problems, and require long-term treatment, community reintegration, and monitoring to support the Indian youths after their return to their home community.

''(2) ADMINISTRATION.—Services under paragraph (1) shall be provided by trained staff within the community who can assist the Indian youths in their continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

''(f) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youths authorized by this section, the Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide for the inclusion of family members of such youths in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

''(g) MULTIDRUG ABUSE PROGRAM.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide, consistent with section 701, programs and services to prevent and treat the abuse of multiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youths residing in Indian communities, on or near reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youths.

''(h) INDIAN YOUTH MENTAL HEALTH.—The Secretary, acting through the Service, shall collect data for the report under section 801 with respect to—

''(1) the number of Indian youth who are being provided mental health services through the Service and Tribal Health Programs;

''(2) a description of, and costs associated with, the mental health services provided for Indian youth through the Service and Tribal Health Programs;

''(3) the number of youth referred to the Service or Tribal Health Programs for mental health services;

''(4) the number of Indian youth provided residential treatment for mental health and behavioral problems through the Service and Tribal Health Programs, reported separately for on- and off-reservation facilities; and

''(5) the costs of the services described in paragraph (4).

''SEC. 708. INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT.

''(a) PURPOSE.—The purpose of this section is to authorize the Secretary to carry out a demonstration project to test the use of telemental health services in suicide prevention, intervention and treatment of Indian youth, including through—

''(1) the use of psychotherapy, psychiatric assessments, diagnostic interviews, therapies for mental health conditions predisposing to suicide, and alcohol and substance abuse treatment;

''(2) the provision of clinical expertise to, consultation services with, and medical advice and training for frontline health care providers working with Indian youth;

''(3) training and related support for community leaders, family members and health and education workers who work with Indian youth;

''(4) the development of culturally-relevant educational materials on suicide; and

''(5) data collection and reporting.

''(b) DEFINITIONS.—For the purpose of this section, the following definitions shall apply:

''(1) DEMONSTRATION PROJECT.—The term 'demonstration project' means the Indian youth telemental health demonstration project authorized under subsection (c).

''(2) TELEMENTAL HEALTH.—The term 'telemental health' means the use of electronic information and telecommunications technologies to support long distance mental health care, patient and professional-related education, public health, and health administration.

''(c) AUTHORIZATION.—

''(1) IN GENERAL.—The Secretary is authorized to award grants under the demonstration project for the provision of telemental health services to Indian youth who—

''(A) have expressed suicidal ideas;

''(B) have attempted suicide; or

''(C) have mental health conditions that increase or could increase the risk of suicide.

''(2) ELIGIBILITY FOR GRANTS.—Such grants shall be awarded to Indian Tribes and Tribal Organizations that operate 1 or more facilities—

''(A) located in Alaska and part of the Alaska Federal Health Care Access Network;

''(B) reporting active clinical telehealth capabilities; or

''(C) offering school-based telemental health services relating to psychiatry to Indian youth.

''(3) GRANT PERIOD.—The Secretary shall award grants under this section for a period of up to 4 years.

''(4) AWARDING OF GRANTS.—Not more than 5 grants shall be provided under paragraph (1), with priority consideration given to Indian Tribes and Tribal Organizations that—

''(A) serve a particular community or geographic area where there is a demonstrated need to address Indian youth suicide;

''(B) enter in to collaborative partnerships with Indian Health Service or Tribal Health Programs or facilities to provide services under this demonstration project;

''(C) serve an isolated community or geographic area which has limited or no access to behavioral health services; or

''(D) operate a detention facility at which Indian youth are detained.

''(d) USE OF FUNDS.—

''(1) IN GENERAL.—An Indian Tribe or Tribal Organization shall use a grant received under subsection (c) for the following purposes:

''(A) To provide telemental health services to Indian youth, including the provision of—

''(i) psychotherapy;

''(ii) psychiatric assessments and diagnostic interviews, therapies for mental health conditions predisposing to suicide, and treatment; and

''(iii) alcohol and substance abuse treatment.

''(B) To provide clinician-interactive medical advice, guidance and training, assistance in diagnosis and interpretation, crisis counseling and intervention, and related assistance to Service, tribal, or urban clinicians and health services providers working with youth being served under this demonstration project.

''(C) To assist, educate and train community leaders, health education professionals and paraprofessionals, tribal outreach workers, and family members who work with the youth receiving telemental health services under this demonstration project, including with identification of suicidal tendencies, crisis intervention and suicide prevention, emergency skill development, and building and expanding networks among these individuals and with State and local health services providers.

''(D) To develop and distribute culturally appropriate community educational materials on—

''(i) suicide prevention;

''(ii) suicide education;

''(iii) suicide screening;

''(iv) suicide intervention; and

''(v) ways to mobilize communities with respect to the identification of risk factors for suicide.

''(E) For data collection and reporting related to Indian youth suicide prevention efforts.

''(2) TRADITIONAL HEALTH CARE PRACTICES.—In carrying out the purposes described in paragraph (1), an Indian Tribe or Tribal Organization may use and promote the traditional health care practices of the Indian Tribes of the youth to be served.

''(e) APPLICATIONS.—To be eligible to receive a grant under subsection (c), an Indian Tribe or Tribal Organization shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a description of the project that the Indian Tribe or Tribal Organization will carry out using the funds provided under the grant;

''(2) a description of the manner in which the project funded under the grant would—

''(A) meet the telemental health care needs of the Indian youth population to be served by the project; or

''(B) improve the access of the Indian youth population to be served to suicide prevention and treatment services;

''(3) evidence of support for the project from the local community to be served by the project;

''(4) a description of how the families and leadership of the communities or populations to be served by the project would be involved in the development and ongoing operations of the project;

''(5) a plan to involve the tribal community of the youth who are provided services by the project in planning and evaluating the mental health care and suicide prevention efforts provided, in order to ensure the integration of community, clinical, environmental, and cultural components of the treatment; and

''(6) a plan for sustaining the project after Federal assistance for the demonstration project has terminated.

''(f) COLLABORATION; REPORTING TO NATIONAL CLEARINGHOUSE.—

''(1) COLLABORATION.—The Secretary, acting through the Service, shall encourage Indian Tribes and Tribal Organizations receiving grants under this section to collaborate to enable comparisons about best practices across projects.

''(2) REPORTING TO NATIONAL CLEARINGHOUSE.—The Secretary, acting through the Service, shall also encourage Indian Tribes and Tribal Organizations receiving grants under this section to submit relevant, declassified project information to the national clearinghouse authorized under section 701(b)(2) in order to better facilitate program performance and improve suicide prevention, intervention, and treatment services.

''(g) ANNUAL REPORT.—Each grant recipient shall submit to the Secretary an annual report that—

''(1) describes the number of telemental health services provided; and

''(2) includes any other information that the Secretary may require.

''(h) REPORT TO CONGRESS.—Not later than 270 days after the termination of the demonstration project, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and Committee on Energy and Commerce of the House of Representatives a final report, based on the annual reports provided by grant recipients under subsection (h), that—

''(1) describes the results of the projects funded by grants awarded under this section, including any data available which indicates the number of attempted suicides;

''(2) evaluates the impact of the telemental health services funded by the grants in reducing the number of completed suicides among Indian youth;

''(3) evaluates whether the demonstration project should be—

''(A) expanded to provide more than 5 grants; and

''(B) designated a permanent program; and

''(4) evaluates the benefits of expanding the demonstration project to include Urban Indian Organizations.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2008 through 2011.

''SEC. 709. INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION, AND STAFFING.

''Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may provide, in each area of the Service, not less than 1 inpatient mental health care facility, or the equivalent, for Indians with behavioral health problems. For the purposes of this subsection, California shall be considered to be 2 Area Offices, 1 office whose location shall be considered to encompass the northern area of the State of California and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California. The Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

''SEC. 710. TRAINING AND COMMUNITY EDUCATION.

''(a) PROGRAM.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement or assist Indian Tribes and Tribal Organizations to develop and implement, within each Service Unit or tribal program, a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education about behavioral health issues to political leaders, Tribal judges, law enforcement personnel, members of tribal health and education boards, health care providers including traditional practitioners, and other critical members of each tribal community. Such program may also include community-based training to develop local capacity and tribal community provider training for prevention, intervention, treatment, and aftercare.

''(b) INSTRUCTION.—The Secretary, acting through the Service, shall, either directly or through Indian Tribes and Tribal Organizations, provide instruction in the area of behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol spectrum disorders to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

''(c) TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, in consultation with Indian Tribes, Tribal Organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

''(1) the elevated risk of alcohol and behavioral health problems faced by children of alcoholics;

''(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

''(3) community-based and multidisciplinary strategies for preventing and treating behavioral health problems.

''SEC. 711. BEHAVIORAL HEALTH PROGRAM.

''(a) INNOVATIVE PROGRAMS.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, consistent with section 701, may plan, develop, implement, and carry out programs to deliver innovative community-based behavioral health services to Indians.

''(b) AWARDS; CRITERIA.—The Secretary may award a grant for a project under subsection (a) to an Indian Tribe or Tribal Organization and may consider the following criteria:

''(1) The project will address significant unmet behavioral health needs among Indians.

''(2) The project will serve a significant number of Indians.

''(3) The project has the potential to deliver services in an efficient and effective manner.

''(4) The Indian Tribe or Tribal Organization has the administrative and financial capability to administer the project.

''(5) The project may deliver services in a manner consistent with traditional health care practices.

''(6) The project is coordinated with, and avoids duplication of, existing services.

''(c) EQUITABLE TREATMENT.—For purposes of this subsection, the Secretary shall, in evaluating project applications or proposals, use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding.

''SEC. 712. FETAL ALCOHOL SPECTRUM DISORDERS PROGRAMS.

''(a) PROGRAMS.—

''(1) ESTABLISHMENT.—The Secretary, consistent with section 701, acting through the Service, Indian Tribes, and Tribal Organizations, is authorized to establish and operate fetal alcohol spectrum disorders programs as provided in this section for the purposes of meeting the health status objectives specified in section 3.

''(2) USE OF FUNDS.—

''(A) IN GENERAL.—Funding provided pursuant to this section shall be used for the following:

''(i) To develop and provide for Indians community and in-school training, education, and prevention programs relating to fetal alcohol spectrum disorders.

''(ii) To identify and provide behavioral health treatment to high-risk Indian women and high-risk women pregnant with an Indian's child.

''(iii) To identify and provide appropriate psychological services, educational and vocational support, counseling, advocacy, and information to fetal alcohol spectrum disorders-affected Indians and their families or caretakers.

''(iv) To develop and implement counseling and support programs in schools for fetal alcohol spectrum disorders-affected Indian children.

''(v) To develop prevention and intervention models which incorporate practitioners of traditional health care practices, cultural values, and community involvement.

''(vi) To develop, print, and disseminate education and prevention materials on fetal alcohol spectrum disorders.

''(vii) To develop and implement, in consultation with Indian Tribes and Tribal Organizations, and in conference with Urban Indian Organizations, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol spectrum disorders clinics for use in Indian communities and Urban Centers.

''(B) ADDITIONAL USES.—In addition to any purpose under subparagraph (A), funding provided pursuant to this section may be used for 1 or more of the following:

''(i) Early childhood intervention projects from birth on to mitigate the effects of fetal alcohol spectrum disorders among Indians.

''(ii) Community-based support services for Indians and women pregnant with Indian children.

''(iii) Community-based housing for adult Indians with fetal alcohol spectrum disorders.

''(3) CRITERIA FOR APPLICATIONS.—The Secretary shall establish criteria for the review and approval of applications for funding under this section.

''(b) SERVICES.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall—

''(1) develop and provide services for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol spectrum disorders in Indian communities; and

''(2) provide supportive services, including services to meet the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians with fetal alcohol spectrum disorders.

''(c) TASK FORCE.—The Secretary shall establish a task force to be known as the Fetal Alcohol Spectrum Disorders Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of representatives from the following:

''(1) The National Institute on Drug Abuse.

''(2) The National Institute on Alcohol and Alcoholism.

''(3) The Office of Substance Abuse Prevention.

''(4) The National Institute of Mental Health.

''(5) The Service.

''(6) The Office of Minority Health of the Department of Health and Human Services.

''(7) The Administration for Native Americans.

''(8) The National Institute of Child Health and Human Development (NICHD).

''(9) The Centers for Disease Control and Prevention.

''(10) The Bureau of Indian Affairs.

''(11) Indian Tribes.

''(12) Tribal Organizations.

''(13) Urban Indian communities.

''(14) Indian fetal alcohol spectrum disorders experts.

''(d) APPLIED RESEARCH PROJECTS.—The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make grants to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and Urban Indians affected by fetal alcohol spectrum disorders.

''(e) FUNDING FOR URBAN INDIAN ORGANIZATIONS.—Ten percent of the funds appropriated pursuant to this section shall be used to make grants to Urban Indian Organizations funded under title V.

''SEC. 713. CHILD SEXUAL ABUSE PREVENTION AND TREATMENT PROGRAMS.

''(a) ESTABLISHMENT.—The Secretary, acting through the Service, and the Secretary of the Interior, Indian Tribes, and Tribal Organizations, shall establish, consistent with section 701, in every Service Area, programs involving treatment for victims of sexual abuse who are Indian children or children in an Indian household.

''(b) USE OF FUNDS.—Funding provided pursuant to this section shall be used for the following:

''(1) To develop and provide community education and prevention programs related to sexual abuse of Indian children or children in an Indian household.

''(2) To identify and provide behavioral health treatment to victims of sexual abuse who are Indian children or children in an Indian household, and to their family members who are affected by sexual abuse.

''(3) To develop prevention and intervention models which incorporate traditional health care practices, cultural values, and community involvement.

''(4) To develop and implement culturally sensitive assessment and diagnostic tools for use in Indian communities and Urban Centers.

''(5) To identify and provide behavioral health treatment to Indian perpetrators and perpetrators who are members of an Indian household—

''(A) making efforts to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated; and

''(B) providing treatment after the perpetrator is released, until it is determined that the perpetrator is not a threat to children.

''(c) COORDINATION.—The programs established under subsection (a) shall be carried out in coordination with programs and services authorized under the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201 et seq.).

''SEC. 714. DOMESTIC AND SEXUAL VIOLENCE PREVENTION AND TREATMENT.

''(a) IN GENERAL.—The Secretary, in accordance with section 701, is authorized to establish in each Service Area programs involving the prevention and treatment of—

''(1) Indian victims of domestic violence or sexual abuse; and

''(2) perpetrators of domestic violence or sexual abuse who are Indian or members of an Indian household.

''(b) USE OF FUNDS.—Funds made available to carry out this section shall be used—

''(1) to develop and implement prevention programs and community education programs relating to domestic violence and sexual abuse;

''(2) to provide behavioral health services, including victim support services, and medical treatment (including examinations performed by sexual assault nurse examiners) to Indian victims of domestic violence or sexual abuse;

''(3) to purchase rape kits,

''(4) to develop prevention and intervention models, which may incorporate traditional health care practices; and

''(5) to identify and provide behavioral health treatment to perpetrators who are Indian or members of an Indian household.

''(c) TRAINING AND CERTIFICATION.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall establish appropriate protocols, policies, procedures, standards of practice, and, if not available elsewhere, training curricula and training and certification requirements for services for victims of domestic violence and sexual abuse.

''(2) REPORT.—Not later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the means and extent to which the Secretary has carried out paragraph (1).

''(d) COORDINATION.—

''(1) IN GENERAL.—The Secretary, in coordination with the Attorney General, Federal and tribal law enforcement agencies, Indian Health Programs, and domestic violence or sexual assault victim organizations, shall develop appropriate victim services and victim advocate training programs—

''(A) to improve domestic violence or sexual abuse responses;

''(B) to improve forensic examinations and collection;

''(C) to identify problems or obstacles in the prosecution of domestic violence or sexual abuse; and

''(D) to meet other needs or carry out other activities required to prevent, treat, and improve prosecutions of domestic violence and sexual abuse.

''(2) REPORT.—Not later than 2 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes, with respect to the matters described in paragraph (1), the improvements made and needed, problems or obstacles identified, and costs necessary to address the problems or obstacles, and any other recommendations that the Secretary determines to be appropriate.

''SEC. 715. TESTIMONY BY SERVICE EMPLOYEES IN CASES OF RAPE AND SEXUAL ASSAULT.

''(a) APPROVAL BY DIRECTOR.—

''(1) IN GENERAL.—The Director shall approve or disapprove, in writing, any request or subpoena for a sexual assault nurse examiner employed by the Service to provide testimony in a deposition, trial, or other similar proceeding regarding information obtained in carrying out the official duties of the nurse examiner.

''(2) REQUIREMENT.—The Director shall approve a request or subpoena under paragraph (1) if the request or subpoena does not violate the policy of the Department to maintain strict impartiality with respect to private causes of action.

''(3) TREATMENT.—If the Director fails to approve or disapprove a request or subpoena by the date that is 30 days after the date of receipt of the request or subpoena, the request or subpoena shall be considered to be approved for purposes of this subsection.

''(b) POLICIES AND PROTOCOL.—The Director, in coordination with the Director of the Office on Violence Against Women of the Department of Justice, in consultation with Indian Tribes and Tribal Organizations, and in conference with Urban Indian Organizations, shall develop standardized sexual assault policies and protocol for the facilities of the Service.

''SEC. 716. BEHAVIORAL HEALTH RESEARCH.

''The Secretary, in consultation with appropriate Federal agencies, shall make grants to, or enter into contracts with, Indian Tribes, Tribal Organizations, and Urban Indian Organizations or enter into contracts with, or make grants to appropriate institutions for, the conduct of research on the incidence and prevalence of behavioral health problems among Indians served by the Service, Indian Tribes, or Tribal Organizations and among Indians in urban areas. Research priorities under this section shall include—

''(1) the multifactorial causes of Indian youth suicide, including—

''(A) protective and risk factors and scientific data that identifies those factors; and

''(B) the effects of loss of cultural identity and the development of scientific data on those effects;

''(2) the interrelationship and interdependence of behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries, and the incidence of family violence; and

''(3) the development of models of prevention techniques.

The effect of the interrelationships and interdependencies referred to in paragraph (2) on children, and the development of prevention techniques under paragraph (3) applicable to children, shall be emphasized.

''SEC. 717. DEFINITIONS.

''For the purpose of this title, the following definitions shall apply:

''(1) ASSESSMENT.—The term 'assessment' means the systematic collection, analysis, and dissemination of information on health status, health needs, and health problems.

''(2) ALCOHOL-RELATED NEURODEVELOPMENTAL DISORDERS OR ARND.—The term 'alcohol-related neurodevelopmental disorders' or 'ARND' means any 1 of a spectrum of effects that—

''(A) may occur when a woman drinks alcohol during pregnancy; and

''(B) involves a central nervous system abnormality that may be structural, neurological, or functional.

''(3) BEHAVIORAL HEALTH AFTERCARE.—The term 'behavioral health aftercare' includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse, or mental health outpatient or outpatient treatment. The purpose is to help prevent or deal with relapse by ensuring that by the time a client or patient is discharged from a level of care, such as outpatient treatment, an aftercare plan has been developed with the client. An aftercare plan may use such resources as a community-based therapeutic group, transitional living facilities, a 12-step sponsor, a local 12-step or other related support group, and other community-based providers.

''(4) DUAL DIAGNOSIS.—The term 'dual diagnosis' means coexisting substance abuse and mental illness conditions or diagnosis. Such clients are sometimes referred to as mentally ill chemical abusers (MICAs).

''(5) FETAL ALCOHOL SPECTRUM DISORDERS.—

''(A) IN GENERAL.—The term 'fetal alcohol spectrum disorders' includes a range of effects that can occur in an individual whose mother drank alcohol during pregnancy, including physical, mental, behavioral, and/or learning disabilities with possible lifelong implications.

''(B) INCLUSIONS.—The term 'fetal alcohol spectrum disorders' may include—

''(i) fetal alcohol syndrome (FAS);

''(ii) fetal alcohol effect (FAE);

''(iii) alcohol-related birth defects; and

''(iv) alcohol-related neurodevelopmental disorders (ARND).

''(6) FETAL ALCOHOL SYNDROME OR FAS.—The term 'fetal alcohol syndrome' or 'FAS' means any 1 of a spectrum of effects that may occur when a woman drinks alcohol during pregnancy, the diagnosis of which involves the confirmed presence of the following 3 criteria:

''(A) Craniofacial abnormalities.

''(B) Growth deficits.

''(C) Central nervous system abnormalities.

''(7) REHABILITATION.—The term 'rehabilitation' means to restore the ability or capacity to engage in usual and customary life activities through education and therapy.

''(8) SUBSTANCE ABUSE.—The term 'substance abuse' includes inhalant abuse.

''SEC. 718. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2017 to carry out the provisions of this title.

''TITLE VIII—MISCELLANEOUS

''SEC. 801. REPORTS.

''For each fiscal year following the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall transmit to Congress a report containing the following:

''(1) A report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and assessments and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians and ensure a health status for Indians, which are at a parity with the health services available to and the health status of the general population.

''(2) A report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian Tribes, Tribal Organizations, and Urban Indian Organizations to address such impact, including a report on proposed changes in allocation of funding pursuant to section 808.

''(3) A report on the use of health services by Indians—

''(A) on a national and area or other relevant geographical basis;

''(B) by gender and age;

''(C) by source of payment and type of service;

''(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

''(E) provided under contracts.

''(4) A report of contractors to the Secretary on Health Care Educational Loan Repayments every 6 months required by section 110.

''(5) A general audit report of the Secretary on the Health Care Educational Loan Repayment Program as required by section 110(n).

''(6) A report of the findings and conclusions of demonstration programs on development of educational curricula for substance abuse counseling as required in section 125(f).

''(7) A separate statement which specifies the amount of funds requested to carry out the provisions of section 201.

''(8) A report of the evaluations of health promotion and disease prevention as required in section 203(c).

''(9) A biennial report to Congress on infectious diseases as required by section 212.

''(10) A report on environmental and nuclear health hazards as required by section 215.

''(11) An annual report on the status of all health care facilities needs as required by section 301(c)(2)(B) and 301(d).

''(12) Reports on safe water and sanitary waste disposal facilities as required by section 302(h).

''(13) An annual report on the expenditure of non-Service funds for renovation as required by sections 304(b)(2).

''(14) A report identifying the backlog of maintenance and repair required at Service and tribal facilities required by section 313(a).

''(15) A report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII, XIX, and XXI of the Social Security Act.

''(16) A report on any arrangements for the sharing of medical facilities or services, as authorized by section 406.

''(17) A report on evaluation and renewal of Urban Indian programs under section 505.

''(18) A report on the evaluation of programs as required by section 513(d).

''(19) A report on alcohol and substance abuse as required by section 701(f).

''(20) A report on Indian youth mental health services as required by section 707(h).

''(21) A report on the reallocation of base resources if required by section 808.

''SEC. 802. REGULATIONS.

''(a) DEADLINES.—

''(1) PROCEDURES.—Not later than 90 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out titles II (except section 202) and VII, the sections of title III for which negotiated rulemaking is specifically required, and section 807. Unless otherwise required, the Secretary may promulgate regulations to carry out titles I, III, IV, and V, and section 202, using the procedures required by chapter V of title 5, United States Code (commonly known as the 'Administrative Procedure Act').

''(2) PROPOSED REGULATIONS.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary no later than 2 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008 and shall have no less than a 120-day comment period.

''(3) FINAL REGULATIONS.—The Secretary shall publish in the Federal Register final regulations to implement this Act by not later than 3 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008.

''(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian Tribes, and Tribal Organizations, a majority of whom shall be nominated by and be representatives of Indian Tribes and Tribal Organizations from each Service Area.

''(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

''(d) LACK OF REGULATIONS.—The lack of promulgated regulations shall not limit the effect of this Act.

''(e) INCONSISTENT REGULATIONS.—The provisions of this Act shall supersede any conflicting provisions of law in effect on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.

''SEC. 803. PLAN OF IMPLEMENTATION.

''Not later than 9 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary, in consultation with Indian Tribes and Tribal Organizations, and in conference with Urban Indian Organizations, shall submit to Congress a plan explaining the manner and schedule, by title and section, by which the Secretary will implement the provisions of this Act. This consultation may be conducted jointly with the annual budget consultation pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq).

''SEC. 804. AVAILABILITY OF FUNDS.

''The funds appropriated pursuant to this Act shall remain available until expended.

''SEC. 805. LIMITATION RELATING TO ABORTION.

''(a) DEFINITION OF HEALTH BENEFITS COVERAGE.—In this section, the term 'health benefits coverage' means a health-related service or group of services provided pursuant to a contract, compact, grant, or other agreement.

''(b) LIMITATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no funds or facilities of the Service may be used—

''(A) to provide any abortion; or

''(B) to provide, or pay any administrative cost of, any health benefits coverage that includes coverage of an abortion.

''(2) EXCEPTIONS.—The limitation described in paragraph (1) shall not apply in any case in which—

''(A) a pregnancy is the result of an act of rape, or an act of incest against a minor; or

''(B) the woman suffers from a physical disorder, physical injury, or physical illness that, as certified by a physician, would place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself.

''(c) TRADITIONAL HEALTH CARE PRACTICES.—Although the Secretary may promote traditional health care practices, consistent with the Service standards for the provision of health care, health promotion, and disease prevention under this Act, the United States is not liable for any provision of traditional health care practices pursuant to this Act that results in damage, injury, or death to a patient. Nothing in this subsection shall be construed to alter any liability or other obligation that the United States may otherwise have under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or this Act.

''(d) FIREARM PROGRAMS.—None of the funds made available to carry out this Act may be used to carry out any antifirearm program, gun buy-back program, or program to discourage or stigmatize the private ownership of firearms for collecting, hunting, or self-defense purposes.

''SEC. 806. ELIGIBILITY OF CALIFORNIA INDIANS.

''(a) IN GENERAL.—The following California Indians shall be eligible for health services provided by the Service:

''(1) Any member of a federally recognized Indian Tribe.

''(2) Any descendant of an Indian who was residing in California on June 1, 1852, if such descendant—

''(A) is a member of the Indian community served by a local program of the Service; and

''(B) is regarded as an Indian by the community in which such descendant lives.

''(3) Any Indian who holds trust interests in public domain, national forest, or reservation allotments in California.

''(4) Any Indian in California who is listed on the plans for distribution of the assets of rancherias and reservations located within the State of California under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

''(b) CLARIFICATION.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

''SEC. 807. HEALTH SERVICES FOR INELIGIBLE PERSONS.

''(a) CHILDREN.—Any individual who—

''(1) has not attained 19 years of age;

''(2) is the natural or adopted child, stepchild, foster child, legal ward, or orphan of an eligible Indian; and

''(3) is not otherwise eligible for health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until 1 year after the date of a determination of competency.

''(b) SPOUSES.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but is not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all such spouses or spouses who are married to members of each Indian Tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian Tribe or Tribal Organization providing such services. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

''(c) PROVISION OF SERVICES TO OTHER INDIVIDUALS.—

''(1) IN GENERAL.—The Secretary is authorized to provide health services under this subsection through health programs operated directly by the Service to individuals who reside within the Service Unit and who are not otherwise eligible for such health services if—

''(A) the Indian Tribes served by such Service Unit request such provision of health services to such individuals; and

''(B) the Secretary and the served Indian Tribes have jointly determined that—

''(i) the provision of such health services will not result in a denial or diminution of health services to eligible Indians; and

''(ii) there is no reasonable alternative health facilities or services, within or without the Service Unit, available to meet the health needs of such individuals.

''(2) ISDEAA PROGRAMS.—In the case of health programs and facilities operated under a contract or compact entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the governing body of the Indian Tribe or Tribal Organization providing health services under such contract or compact is authorized to determine whether health services should be provided under such contract to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian Tribe or Tribal Organization shall take into account the considerations described in paragraph (1)(B).

''(3) PAYMENT FOR SERVICES.—

''(A) IN GENERAL.—Persons receiving health services provided by the Service under this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 404 of this Act or any other provision of law, amounts collected under this subsection, including Medicare, Medicaid, or SCHIP reimbursements under titles XVIII, XIX, and XXI of the Social Security Act, shall be credited to the account of the program providing the service and shall be used for the purposes listed in section 401(d)(2) and amounts collected under this subsection shall be available for expenditure within such program.

''(B) INDIGENT PEOPLE.—Health services may be provided by the Secretary through the Service under this subsection to an indigent individual who would not be otherwise eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent individual.

''(4) REVOCATION OF CONSENT FOR SERVICES.—

''(A) SINGLE TRIBE SERVICE AREA.—In the case of a Service Area which serves only 1 Indian Tribe, the authority of the Secretary to provide health services under paragraph (1) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian Tribe revokes its concurrence to the provision of such health services.

''(B) MULTITRIBAL SERVICE AREA.—In the case of a multitribal Service Area, the authority of the Secretary to provide health services under paragraph (1) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian Tribes in the Service Area revoke their concurrence to the provisions of such health services.

''(d) OTHER SERVICES.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other provision of law in order to—

''(1) achieve stability in a medical emergency;

''(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

''(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through postpartum; or

''(4) provide care to immediate family members of an eligible individual if such care is directly related to the treatment of the eligible individual.

''(e) HOSPITAL PRIVILEGES FOR PRACTITIONERS.—Hospital privileges in health facilities operated and maintained by the Service or operated under a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) may be extended to non-Service health care practitioners who provide services to individuals described in subsection (a), (b), (c), or (d). Such non-Service health care practitioners may, as part of the privileging process, be designated as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible individuals as a part of the conditions under which such hospital privileges are extended.

''(f) ELIGIBLE INDIAN.—For purposes of this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

''SEC. 808. REALLOCATION OF BASE RESOURCES.

''(a) REPORT REQUIRED.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a Service Unit may be implemented only after the Secretary has submitted to Congress, under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

''(b) EXCEPTION.—Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is at least 5 percent less than the amount appropriated to the Service for the previous fiscal year.

''SEC. 809. RESULTS OF DEMONSTRATION PROJECTS.

''The Secretary shall provide for the dissemination to Indian Tribes, Tribal Organizations, and Urban Indian Organizations of the findings and results of demonstration projects conducted under this Act.

''SEC. 810. PROVISION OF SERVICES IN MONTANA.

''(a) CONSISTENT WITH COURT DECISION.—The Secretary, acting through the Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cir. 1987).

''(b) CLARIFICATION.—The provisions of subsection (a) shall not be construed to be an expression of the sense of Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

''SEC. 811. TRIBAL EMPLOYMENT.

''For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, chapter 372), an Indian Tribe or Tribal Organization carrying out a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not be considered an 'employer'.

''SEC. 812. SEVERABILITY PROVISIONS.

''If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

''SEC. 813. ESTABLISHMENT OF NATIONAL BIPARTISAN COMMISSION ON INDIAN HEALTH CARE.

''(a) ESTABLISHMENT.—There is established the National Bipartisan Indian Health Care Commission (the 'Commission').

''(b) DUTIES OF COMMISSION.—The duties of the Commission are the following:

''(1) To establish a study committee composed of those members of the Commission appointed by the Director and at least 4 members of Congress from among the members of the Commission, the duties of which shall be the following:

''(A) To the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, which may include authorizing and making funds available for feasibility studies of various models for providing and funding health services for all Indian beneficiaries, including those who live outside of a reservation, temporarily or permanently.

''(B) To make legislative recommendations to the Commission regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

''(C) To determine the effect of the enactment of such recommendations on (i) the existing system of delivery of health services for Indians, and (ii) the sovereign status of Indian Tribes.

''(D) Not later than 12 months after the appointment of all members of the Commission, to submit a written report of its findings and recommendations to the full Commission. The report shall include a statement of the minority and majority position of the Committee and shall be disseminated, at a minimum, to every Indian Tribe, Tribal Organization, and Urban Indian Organization for comment to the Commission.

''(E) To report regularly to the full Commission regarding the findings and recommendations developed by the study committee in the course of carrying out its duties under this section.

''(2) To review and analyze the recommendations of the report of the study committee.

''(3) To make legislative recommendations to Congress regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

''(4) Not later than 18 months following the date of appointment of all members of the Commission, submit a written report to Congress regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

''(c) MEMBERS.—

''(1) APPOINTMENT.—The Commission shall be composed of 25 members, appointed as follows:

''(A) Ten members of Congress, including 3 from the House of Representatives and 2 from the Senate, appointed by their respective majority leaders, and 3 from the House of Representatives and 2 from the Senate, appointed by their respective minority leaders, and who shall be members of the standing committees of Congress that consider legislation affecting health care to Indians.

''(B) Twelve persons chosen by the congressional members of the Commission, 1 from each Service Area as currently designated by the Director to be chosen from among 3 nominees from each Service Area put forward by the Indian Tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and to a reasonable representation on the commission of members who are familiar with various health care delivery modes and who represent Indian Tribes of various size populations.

''(C) Three persons appointed by the Director who are knowledgeable about the provision of health care to Indians, at least 1 of whom shall be appointed from among 3 nominees put forward by those programs whose funds are provided in whole or in part by the Service primarily or exclusively for the benefit of Urban Indians.

''(D) All those persons chosen by the congressional members of the Commission and by the Director shall be members of federally recognized Indian Tribes.

''(2) CHAIR; VICE CHAIR.—The Chair and Vice Chair of the Commission shall be selected by the congressional members of the Commission.

''(3) TERMS.—The terms of members of the Commission shall be for the life of the Commission.

''(4) DEADLINE FOR APPOINTMENTS.—Congressional members of the Commission shall be appointed not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, and the remaining members of the Commission shall be appointed not later than 60 days following the appointment of the congressional members.

''(5) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(d) COMPENSATION.—

''(1) CONGRESSIONAL MEMBERS.—Each congressional member of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission and shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

''(2) OTHER MEMBERS.—Remaining members of the Commission, while serving on the business of the Commission (including travel time), shall be entitled to receive compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. For purpose of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

''(e) MEETINGS.—The Commission shall meet at the call of the Chair.

''(f) QUORUM.—A quorum of the Commission shall consist of not less than 15 members, provided that no less than 6 of the members of Congress who are Commission members are present and no less than 9 of the members who are Indians are present.

''(g) EXECUTIVE DIRECTOR; STAFF; FACILITIES.—

''(1) APPOINTMENT; PAY.—The Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

''(2) STAFF APPOINTMENT.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

''(3) STAFF PAY.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

''(4) TEMPORARY SERVICES.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(5) FACILITIES.—The Administrator of General Services shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

''(h) HEARINGS.—(1) For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, provided that at least 6 regional hearings are held in different areas of the United States in which large numbers of Indians are present. Such hearings are to be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this subsection, at least 5 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established in this section may count toward the number of regional hearings required by this subsection.

''(2)(A) The Director of the Congressional Budget Office or the Chief Actuary of the Centers for Medicare & Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

''(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of that Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

''(3) Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

''(4) Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

''(5) The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

''(6) The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 4, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

''(7) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''(8) For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of Congress.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,000,000 to carry out the provisions of this section, which sum shall not be deducted from or affect any other appropriation for health care for Indian persons.

''(j) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

''SEC. 814. CONFIDENTIALITY OF MEDICAL QUALITY ASSURANCE RECORDS; QUALIFIED IMMUNITY FOR PARTICIPANTS.

''(a) CONFIDENTIALITY OF RECORDS.—Medical quality assurance records created by or for any Indian Health Program or a health program of an Urban Indian Organization as part of a medical quality assurance program are confidential and privileged. Such records may not be disclosed to any person or entity, except as provided in subsection (c).

''(b) PROHIBITION ON DISCLOSURE AND TESTIMONY.—

''(1) IN GENERAL.—No part of any medical quality assurance record described in subsection (a) may be subject to discovery or admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (c).

''(2) TESTIMONY.—A person who reviews or creates medical quality assurance records for any Indian Health Program or Urban Indian Organization who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any judicial or administrative proceeding with respect to such records or with respect to any finding, recommendation, evaluation, opinion, or action taken by such person or body in connection with such records except as provided in this section.

''(c) AUTHORIZED DISCLOSURE AND TESTIMONY.—

''(1) IN GENERAL.—Subject to paragraph (2), a medical quality assurance record described in subsection (a) may be disclosed, and a person referred to in subsection (b) may give testimony in connection with such a record, only as follows:

''(A) To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to any Indian Health Program or to a health program of an Urban Indian Organization to perform monitoring, required by law, of such program or organization.

''(B) To an administrative or judicial proceeding commenced by a present or former Indian Health Program or Urban Indian Organization provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

''(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was an employee of any Indian Health Program or Urban Indian Organization.

''(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was an employee of any Indian Health Program or Urban Indian Organization and who has applied for or been granted authority or employment to provide health care services in or on behalf of such program or organization.

''(E) To an officer, employee, or contractor of the Indian Health Program or Urban Indian Organization that created the records or for which the records were created. If that officer, employee, or contractor has a need for such record or testimony to perform official duties.

''(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or testimony be provided for a purpose authorized by law.

''(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of such proceeding.

''(2) IDENTITY OF PARTICIPANTS.—With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from any Indian Health Program or Urban Indian Organization or the identity of any other person associated with such program or organization for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record described in subsection (a) shall be deleted from that record or document before any disclosure of such record is made outside such program or organization.

''(d) DISCLOSURE FOR CERTAIN PURPOSES.—

''(1) IN GENERAL.—Nothing in this section shall be construed as authorizing or requiring the withholding from any person or entity aggregate statistical information regarding the results of any Indian Health Program's or Urban Indian Organization's medical quality assurance programs.

''(2) WITHHOLDING FROM CONGRESS.—Nothing in this section shall be construed as authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the Government Accountability Office if such record pertains to any matter within their respective jurisdictions.

''(e) PROHIBITION ON DISCLOSURE OF RECORD OR TESTIMONY.—A person or entity having possession of or access to a record or testimony described by this section may not disclose the contents of such record or testimony in any manner or for any purpose except as provided in this section.

''(f) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—Medical quality assurance records described in subsection (a) may not be made available to any person under section 552 of title 5.

''(g) LIMITATION ON CIVIL LIABILITY.—A person who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (a) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

''(h) APPLICATION TO INFORMATION IN CERTAIN OTHER RECORDS.—Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

''(i) REGULATIONS.—The Secretary, acting through the Service, is authorized to promulgate regulations pursuant to section 802.

''(j) DEFINITIONS.—In this section:

''(1) The term 'health care provider' means any health care professional, including community health aides and practitioners certified under section 121, who are granted clinical practice privileges or employed to provide health care services in an Indian Health Program or health program of an Urban Indian Organization, who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

''(2) The term 'medical quality assurance program' means any activity carried out before, on, or after the date of enactment of this Act by or for any Indian Health Program or Urban Indian Organization to assess the quality of medical care, including activities conducted by or on behalf of individuals, Indian Health Program or Urban Indian Organization medical or dental treatment review committees, or other review bodies responsible for review of adverse incidents, claims, quality assurance, credentials, infection control, patient safety, patient care assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

''(3) The term 'medical quality assurance record' means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (2) and are produced or compiled by or for an Indian Health Program or Urban Indian Organization as part of a medical quality assurance program.

''(k) RELATIONSHIP TO OTHER LAW.—This section shall continue in force and effect, except as otherwise specifically provided in any Federal law enacted after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008.

''SEC. 815. SENSE OF CONGRESS REGARDING LAW ENFORCEMENT AND METHAMPHETAMINE ISSUES IN INDIAN COUNTRY.

''It is the sense of Congress that Congress encourages State, local, and Indian tribal law enforcement agencies to enter into memoranda of agreement between and among those agencies for purposes of streamlining law enforcement activities and maximizing the use of limited resources—

''(1) to improve law enforcement services provided to Indian tribal communities; and

''(2) to increase the effectiveness of measures to address problems relating to methamphetamine use in Indian Country (as defined in section 1151 of title 18, United States Code).

''SEC. 816. TRIBAL HEALTH PROGRAM OPTION FOR COST SHARING.

''(a) IN GENERAL.—Nothing in this Act limits the ability of a Tribal Health Program operating any health program, service, function, activity, or facility funded, in whole or part, by the Service through, or provided for in, a compact with the Service pursuant to title V of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aaa et seq.) to charge an Indian for services provided by the Tribal Health Program.

''(b) SERVICE.—Nothing in this Act authorizes the Service—

''(1) to charge an Indian for services; or

''(2) to require any Tribal Health Program to charge an Indian for services.

''SEC. 817. TESTING FOR SEXUALLY TRANSMITTED DISEASES IN CASES OF SEXUAL VIOLENCE.

''The Attorney General shall ensure that, with respect to any Federal criminal action involving a sexual assault, rape, or other incident of sexual violence against an Indian—

''(1)(A) at the request of the victim, a defendant is tested for the human immunodeficiency virus (HIV) and such other sexually transmitted diseases as are requested by the victim not later than 48 hours after the date on which the applicable information or indictment is presented;

''(B) a notification of the test results is provided to the victim or the parent or guardian of the victim and the defendant as soon as practicable after the results are generated; and

''(C) such follow-up tests for HIV and other sexually transmitted diseases are provided as

are medically appropriate, with the test results made available in accordance with subparagraph (B); and

''(2) pursuant to section 714(a), HIV and other sexually transmitted disease testing, treatment, and counseling is provided for victims of sexual abuse.

''SEC. 818. STUDY ON TOBACCO-RELATED DISEASE AND DISPROPORTIONATE HEALTH EFFECTS ON TRIBAL POPULATIONS.

''Not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary, in consultation with appropriate Federal departments and agencies and acting through the epidemiology centers established under section 209, shall solicit from independent organizations bids to conduct, and shall submit to Congress no later than 5 years after enactment a report describing the results of, a study to determine possible causes for the high prevalence of tobacco use among Indians.

''SEC. 819. APPROPRIATIONS; AVAILABILITY.

''Any new spending authority (described in subparagraph (A) or (B) of section 401(c)(2) of the Congressional Budget Act of 1974 (Public Law 93–344; 88 Stat. 317)) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

''SEC. 820. GAO REPORT ON COORDINATION OF SERVICES.

''(a) STUDY AND EVALUATION.—The Comptroller General of the United States shall conduct a study, and evaluate the effectiveness, of coordination of health care services provided to Indians—

''(1) through Medicare, Medicaid, or SCHIP;

''(2) by the Service; or

''(3) using funds provided by—

''(A) State or local governments; or

''(B) Indian Tribes.

''(b) REPORT.—Not later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2007, the Comptroller General shall submit to Congress a report—

''(1) describing the results of the evaluation under subsection (a); and

''(2) containing recommendations of the Comptroller General regarding measures to support and increase coordination of the provision of health care services to Indians as described in subsection (a).

''SEC. 821. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2017 to carry out this title.''.

SEC. 102. SOBOBA SANITATION FACILITIES.

The Act of December 17, 1970 (84 Stat. 1465), is amended by adding at the end the following:

''SEC. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267).''.

SEC. 103. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

(a) IN GENERAL.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

''TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION

''SEC. 801. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the Board of Directors of the Foundation.

''(2) COMMITTEE.—The term 'Committee' means the Committee for the Establishment of Native American Health and Wellness Foundation established under section 802(f).

''(3) FOUNDATION.—The term 'Foundation' means the Native American Health and Wellness Foundation established under section 802.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(5) SERVICE.—The term 'Service' means the Indian Health Service of the Department of Health and Human Services.

''SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.

''(2) FUNDING DETERMINATIONS.—No funds, gift, property, or other item of value (including any interest accrued on such an item) acquired by the Foundation shall—

''(A) be taken into consideration for purposes of determining Federal appropriations relating to the provision of health care and services to Indians; or

''(B) otherwise limit, diminish, or affect the Federal responsibility for the provision of health care and services to Indians.

''(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.

''(c) NATURE OF CORPORATION.—The Foundation—

''(1) shall be a charitable and nonprofit federally chartered corporation; and

''(2) shall not be an agency or instrumentality of the United States.

''(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

''(e) DUTIES.—The Foundation shall—

''(1) encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Service;

''(2) undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and

''(3) participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.

''(f) COMMITTEE FOR THE ESTABLISHMENT OF NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.—

''(1) IN GENERAL.—The Secretary shall establish the Committee for the Establishment of Native American Health and Wellness Foundation to assist the Secretary in establishing the Foundation.

''(2) DUTIES.—Not later than 180 days after the date of enactment of this section, the Committee shall—

''(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;

''(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the Board is established;

''(C) establish the constitution and initial bylaws of the Foundation;

''(D) provide for the initial operation of the Foundation, including providing for temporary or interim quarters, equipment, and staff; and

''(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

''(g) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

''(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

''(3) SELECTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

''(B) REQUIREMENTS.—

''(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, who shall have staggered terms.

''(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

''(I) shall be appointed by the Committee not later than 180 days after the date on which the Foundation is established; and

''(II) shall have staggered terms.

''(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

''(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

''(h) OFFICERS.—

''(1) IN GENERAL.—The officers of the Foundation shall be—

''(A) a secretary, elected from among the members of the Board; and

''(B) any other officers provided for in the constitution and bylaws of the Foundation.

''(2) CHIEF OPERATING OFFICER.—The secretary of the Foundation may serve, at the direction of the Board, as the chief operating officer of the Foundation, or the Board may appoint a chief operating officer, who shall serve at the direction of the Board.

''(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

''(i) POWERS.—The Foundation—

''(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

''(2) may adopt and alter a corporate seal;

''(3) may enter into contracts;

''(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

''(5) may sue and be sued; and

''(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

''(j) PRINCIPAL OFFICE.—

''(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

''(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

''(k) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

''(l) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

''(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

''(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

''(m) RESTRICTIONS.—

''(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed the percentage described in paragraph (2) of the sum of—

''(A) the amounts transferred to the Foundation under subsection (o) during the preceding fiscal year; and

''(B) donations received from private sources during the preceding fiscal year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1) are—

''(A) for the first fiscal year described in that paragraph, 20 percent;

''(B) for the following fiscal year, 15 percent; and

''(C) for each fiscal year thereafter, 10 percent.

''(3) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

''(4) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

''(n) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

''(o) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (e)(1) $500,000 for each fiscal year, as adjusted to reflect changes in the Consumer Price Index for all-urban consumers published by the Department of Labor.

''(2) TRANSFER OF DONATED FUNDS.—The Secretary shall transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.), if the transfer or use of the funds is not prohibited by any term under which the funds were donated.

''SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.

''(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

''(1) may provide personnel, facilities, and other administrative support services to the Foundation;

''(2) may provide funds for initial operating costs and to reimburse the travel expenses of the members of the Board; and

''(3) shall require and accept reimbursements from the Foundation for—

''(A) services provided under paragraph (1); and

''(B) funds provided under paragraph (2).

''(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—

''(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

''(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

''(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services—

''(1) are available; and

''(2) are provided on reimbursable cost basis.''.

(b) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (25 U.S.C. 458bbb et seq.) as title VII;

(2) by redesignating sections 501, 502, and 503 (25 U.S.C. 458bbb, 458bbb–1, 458bbb–2) as sections 701, 702, and 703, respectively; and

(3) in subsection (a)(2) of section 702 and paragraph (2) of section 703 (as redesignated by paragraph (2)), by striking ''section 501'' and inserting ''section 701''.

SEC. 104. MODIFICATION OF TERM.

(a) IN GENERAL.—Except as provided in subsection (b), the Indian Health Care Improvement Act (as amended by section 101) and each provision of the Social Security Act amended by title II are amended (as applicable)—

(1) by striking ''Urban Indian Organizations'' each place it appears and inserting ''urban Indian organizations'';

(2) by striking ''Urban Indian Organization'' each place it appears and inserting ''urban Indian organization'';

(3) by striking ''Urban Indians'' each place it appears and inserting ''urban Indians'';

(4) by striking ''Urban Indian'' each place it appears and inserting ''urban Indian'';

(5) by striking ''Urban Centers'' each place it appears and inserting ''urban centers''; and

(6) by striking ''Urban Center'' each place it appears and inserting ''urban center''.

(b) EXCEPTION.—The amendments made by subsection (a) shall not apply with respect to—

(1) the matter preceding paragraph (1) of section 510 of the Indian Health Care Improvement Act (as amended by section 101); and

(2) ''Urban Indian'' the first place it appears in section 513(a) of the Indian Health Care Improvement Act (as amended by section 101).

(c) MODIFICATION OF DEFINITION.—Section 4 of the Indian Health Care Improvement Act (as amended by section 101) is amended by striking paragraph (27) and inserting the following:

''(27) The term 'urban Indian' means any individual who resides in an urban center and who meets 1 or more of the 4 criteria in subparagraphs (A) through (D) of paragraph (12).''.

SEC. 105. GAO STUDY AND REPORT ON PAYMENTS FOR CONTRACT HEALTH SERVICES.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States (in this section referred to as the ''Comptroller General'') shall conduct a study on the utilization of health care furnished by health care providers under the contract health services program funded by the Indian Health Service and operated by the Indian Health Service, an Indian Tribe, or a Tribal Organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act).

(2) ANALYSIS.—The study conducted under paragraph (1) shall include an analysis of—

(A) the amounts reimbursed under the contract health services program described in paragraph (1) for health care furnished by entities, individual providers, and suppliers, including a comparison of reimbursement for such health care through other public programs and in the private sector;

(B) barriers to accessing care under such contract health services program, including, but not limited to, barriers relating to travel distances, cultural differences, and public and private sector reluctance to furnish care to patients under such program;

(C) the adequacy of existing Federal funding for health care under such contract health services program; and

(D) any other items determined appropriate by the Comptroller General.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a), together with recommendations regarding—

(1) the appropriate level of Federal funding that should be established for health care under the contract health services program described in subsection (a)(1); and

(2) how to most efficiently utilize such funding.

(c) CONSULTATION.—In conducting the study under subsection (a) and preparing the report under subsection (b), the Comptroller General shall consult with the Indian Health Service, Indian Tribes, and Tribal Organizations.

SEC. 106. GAO STUDY OF MEMBERSHIP CRITERIA FOR FEDERALLY RECOGNIZED INDIAN TRIBES.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of membership criteria for federally recognized Indian tribes, including—

(1) the number of federally recognized Indian tribes in existence on the date on which the study is conducted;

(2) the number of those Indian tribes that use blood quantum as a criterion for membership in the Indian tribe and the importance assigned to that criterion;

(3) the percentage of members of federally recognized Indian tribes that possesses degrees of Indian blood of—

(A) ¼;

(B) ⅛; and

(C) 1/16; and

(4) the variance in wait times and rationing of health care services within the Service between federally recognized Indian Tribes that use blood quantum as a criterion for membership and those Indian Tribes that do not use blood quantum as such a criterion.

SEC. 107. GAO STUDY OF TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct, and submit to Congress a report describing the results of, a study of the tribal justice systems of Indian tribes located in the States of North Dakota and South Dakota.

(b) INCLUSIONS.—The study under subsection (a) shall include, with respect to the tribal system of each Indian tribe described in subsection (a) and the tribal justice system as a whole—

(1)(A) a description of how the tribal justice systems function, or are supposed to function; and

(B) a description of the components of the tribal justice systems, such as tribal trial courts, courts of appeal, applicable tribal law, judges, qualifications of judges, the selection and removal of judges, turnover of judges, the creation of precedent, the recording of precedent, the jurisdictional authority of the tribal court system, and the separation of powers between the tribal court system, the tribal council, and the head of the tribal government;

(2) a review of the origins of the tribal justice systems, such as the development of the systems pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.) (commonly known as the ''Indian Reorganization Act''), which promoted tribal constitutions and addressed the tribal court system;

(3) an analysis of the weaknesses of the tribal justice systems, including the adequacy of law enforcement personnel and detention facilities, in particular in relation to crime rates; and

(4) an analysis of the measures that tribal officials suggest could be carried out to improve the tribal justice systems, including an analysis of how Federal law could improve and stabilize the tribal court system.

TITLE II—IMPROVEMENT OF INDIAN HEALTH CARE PROVIDED UNDER THE SOCIAL SECURITY ACT

SEC. 201. EXPANSION OF PAYMENTS UNDER MEDICARE, MEDICAID, AND SCHIP FOR ALL COVERED SERVICES FURNISHED BY INDIAN HEALTH PROGRAMS.

(a) MEDICAID.—

(1) EXPANSION TO ALL COVERED SERVICES.—Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended—

(A) by amending the heading to read as follows:

"SEC. 1911. INDIAN HEALTH PROGRAMS.";

and

(B) by amending subsection (a) to read as follows:

''(a) ELIGIBILITY FOR PAYMENT FOR MEDICAL ASSISTANCE.—The Indian Health Service and an Indian Tribe, Tribal Organization, or an Urban Indian Organization shall be eligible for payment for medical assistance provided under a State plan or under waiver authority with respect to items and services furnished by the Indian Health Service, Indian Tribe, Tribal Organization, or Urban Indian Organization if the furnishing of such services meets all the conditions and requirements which are applicable generally to the furnishing of items and services under this title and under such plan or waiver authority.''.

(2) COMPLIANCE WITH CONDITIONS AND REQUIREMENTS.—Subsection (b) of such section is amended to read as follows:

''(b) COMPLIANCE WITH CONDITIONS AND REQUIREMENTS.—A facility of the Indian Health Service or an Indian Tribe, Tribal Organization, or an Urban Indian Organization which is eligible for payment under subsection (a) with respect to the furnishing of items and services, but which does not meet all of the conditions and requirements of this title and under a State plan or waiver authority which are applicable generally to such facility, shall make such improvements as are necessary to achieve or maintain compliance with such conditions and requirements in accordance with a plan submitted to and accepted by the Secretary for achieving or maintaining compliance with such conditions and requirements, and shall be deemed to meet such conditions and requirements (and to be eligible for payment under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted.''.

(3) REVISION OF AUTHORITY TO ENTER INTO AGREEMENTS.—Subsection (c) of such section is amended to read as follows:

''(c) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into an agreement with a State for the purpose of reimbursing the State for medical assistance provided by the Indian Health Service, an Indian Tribe, Tribal Organization, or an Urban Indian Organization (as so defined), directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian Tribe, Tribal Organization, or an Urban Indian Organization and another health care provider to Indians who are eligible for medical assistance under the State plan or under waiver authority.''.

(4) CROSS-REFERENCES TO SPECIAL FUND FOR IMPROVEMENT OF IHS FACILITIES; DIRECT BILLING OPTION; DEFINITIONS.—Such section is further amended by striking subsection (d) and adding at the end the following new subsections:

''(d) SPECIAL FUND FOR IMPROVEMENT OF IHS FACILITIES.—For provisions relating to the authority of the Secretary to place payments to which a facility of the Indian Health Service is eligible for payment under this title into a special fund established under section 401(c)(1) of the Indian Health Care Improvement Act, and the requirement to use amounts paid from such fund for making improvements in accordance with subsection (b), see subparagraphs (A) and (B) of section 401(c)(1) of such Act.

''(e) DIRECT BILLING.—For provisions relating to the authority of a Tribal Health Program or an Urban Indian Organization to elect to directly bill for, and receive payment for, health care items and services provided by such Program or Organization for which payment is made under this title, see section 401(d) of the Indian Health Care Improvement Act.

''(f) DEFINITIONS.—In this section, the terms 'Indian Health Program', 'Indian Tribe','Tribal Health Program', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

(b) MEDICARE.—

(1) EXPANSION TO ALL COVERED SERVICES.—Section 1880 of such Act (42 U.S.C. 1395qq) is amended—

(A) by amending the heading to read as follows:

"SEC. 1880. INDIAN HEALTH PROGRAMS.";

and

(B) by amending subsection (a) to read as follows:

''(a) ELIGIBILITY FOR PAYMENTS.—Subject to subsection (e), the Indian Health Service and an Indian Tribe, Tribal Organization, or an Urban Indian Organization shall be eligible for payments under this title with respect to items and services furnished by the Indian Health Service, Indian Tribe, Tribal Organization, or Urban Indian Organization if the furnishing of such services meets all the conditions and requirements which are applicable generally to the furnishing of items and services under this title.''.

(2) COMPLIANCE WITH CONDITIONS AND REQUIREMENTS.—Subsection (b) of such section is amended to read as follows:

''(b) COMPLIANCE WITH CONDITIONS AND REQUIREMENTS.—Subject to subsection (e), a facility of the Indian Health Service or an Indian Tribe, Tribal Organization, or an Urban Indian Organization which is eligible for payment under subsection (a) with respect to the furnishing of items and services, but which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, shall make such improvements as are necessary to achieve or maintain compliance with such conditions and requirements in accordance with a plan submitted to and accepted by the Secretary for achieving or maintaining compliance with such conditions and requirements, and shall be deemed to meet such conditions and requirements (and to be eligible for payment under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted.''.

(3) CROSS-REFERENCES TO SPECIAL FUND FOR IMPROVEMENT OF IHS FACILITIES; DIRECT BILLING OPTION; DEFINITIONS.—

(A) IN GENERAL.—Such section is further amended by striking subsections (c) and (d) and inserting the following new subsections:

''(c) SPECIAL FUND FOR IMPROVEMENT OF IHS FACILITIES.—For provisions relating to the authority of the Secretary to place payments to which a facility of the Indian Health Service is eligible for payment under this title into a special fund established under section 401(c)(1) of the Indian Health Care Improvement Act, and the requirement to use amounts paid from such fund for making improvements in accordance with subsection (b), see subparagraphs (A) and (B) of section 401(c)(1) of such Act.

''(d) DIRECT BILLING.—For provisions relating to the authority of a Tribal Health Program or an Urban Indian Organization to elect to directly bill for, and receive payment for, health care items and services provided by such Program or Organization for which payment is made under this title, see section 401(d) of the Indian Health Care Improvement Act.''.

(B) CONFORMING AMENDMENT.—Paragraph (3) of section 1880(e) of such Act (42 U.S.C. 1395qq(e)) is amended by inserting ''and section 401(c)(1) of the Indian Health Care Improvement Act'' after ''Subsection (c)''.

(4) DEFINITIONS.—Such section is further amended by amending subsection (f) to read as follows:

''(f) DEFINITIONS.—In this section, the terms 'Indian Health Program', 'Indian Tribe', 'Service Unit', 'Tribal Health Program', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

(c) APPLICATION TO SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C), the following new subparagraph:

''(D) Section 1911 (relating to Indian Health Programs, other than subsection (d) of such section).''.

SEC. 202. INCREASED OUTREACH TO INDIANS UNDER MEDICAID AND SCHIP AND IMPROVED COOPERATION IN THE PROVISION OF ITEMS AND SERVICES TO INDIANS UNDER SOCIAL SECURITY ACT HEALTH BENEFIT PROGRAMS.

Section 1139 of the Social Security Act (42 U.S.C. 1320b–9) is amended to read as follows:

"SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF, HEALTH CARE FOR INDIANS UNDER TITLES XVIII, XIX, AND XXI.

''(a) AGREEMENTS WITH STATES FOR MEDICAID AND SCHIP OUTREACH ON OR NEAR RESERVATIONS TO INCREASE THE ENROLLMENT OF INDIANS IN THOSE PROGRAMS.—

''(1) IN GENERAL.—In order to improve the access of Indians residing on or near a reservation to obtain benefits under the Medicaid and State children's health insurance programs established under titles XIX and XXI, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with the Indian Health Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are appropriate.

''(2) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as affecting arrangements entered into between States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations for such Service, Tribes, or Organizations to conduct administrative activities under such titles.

''(b) REQUIREMENT TO FACILITATE COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements

between, States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations with respect to the provision of health care items and services to Indians under the programs established under title XVIII, XIX, or XXI.

''(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—In this section, the terms 'Indian', 'Indian Tribe', 'Indian Health Program', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

SEC. 203. ADDITIONAL PROVISIONS TO INCREASE OUTREACH TO, AND ENROLLMENT OF, INDIANS IN SCHIP AND MEDICAID.

(a) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION TO EXPENDITURES FOR OUTREACH TO INCREASE THE ENROLLMENT OF INDIAN CHILDREN UNDER THIS TITLE AND TITLE XIX.—The limitation under subparagraph (A) on expenditures for items described in subsection (a)(1)(D) shall not apply in the case of expenditures for outreach activities to families of Indian children likely to be eligible for child health assistance under the plan or medical assistance under the State plan under title XIX (or under a waiver of such plan), to inform such families of the availability of, and to assist them in enrolling their children in, such plans, including such activities conducted under grants, contracts, or agreements entered into under section 1139(a).''.

(b) ASSURANCE OF PAYMENTS TO INDIAN HEALTH CARE PROVIDERS FOR CHILD HEALTH ASSISTANCE.—Section 2102(b)(3)(D) of such Act (42 U.S.C. 1397bb(b)(3)(D)) is amended by striking ''(as defined in section 4(c) of the Indian Health Care Improvement Act, 25 U.S.C. 1603(c))'' and inserting '', including how the State will ensure that payments are made to Indian Health Programs and Urban Indian Organizations operating in the State for the provision of such assistance''.

(c) INCLUSION OF OTHER INDIAN FINANCED HEALTH CARE PROGRAMS IN EXEMPTION FROM PROHIBITION ON CERTAIN PAYMENTS.—Section 2105(c)(6)(B) of such Act (42 U.S.C. 1397ee(c)(6)(B)) is amended by striking ''insurance program, other than an insurance program operated or financed by the Indian Health Service'' and inserting ''program, other than a health care program operated or financed by the Indian Health Service or by an Indian Tribe, Tribal Organization, or Urban Indian Organization''.

(d) SATISFACTION OF MEDICAID DOCUMENTATION REQUIREMENTS.—Section 1903(x)(3)(B) of the Social Security Act (42 U.S.C. 1396b(x)(3)(B)) is amended—

(1) by redesignating clause (v) as clause (vii); and

(2) by inserting after clause (iv), the following new clauses:

''(v) Except as provided in clause (vi), a document issued by a federally recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood).

''(vi)(I) With respect to those federally recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States documentation (including tribal documentation, if appropriate) that the Secretary determines to be satisfactory documentary evidence of United States citizenship or nationality under the regulations adopted pursuant to subclause (II).

''(II) Not later than 90 days after the date of enactment of this subclause, the Secretary, in consultation with the tribes referred to in subclause (I), shall promulgate interim final regulations specifying the forms of documentation (including tribal documentation, if appropriate) deemed to be satisfactory evidence of the United States citizenship or nationality of a member of any such Indian tribe for purposes of satisfying the requirements of this subsection.

''(III) During the period that begins on the date of enactment of this clause and ends on the effective date of the interim final regulations promulgated under subclause (II), a document issued by a federally recognized Indian tribe referred to in subclause (I) evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood) accompanied by a signed attestation that the individual is a citizen of the United States and a certification by the appropriate officer or agent of the Indian tribe that the membership or other records maintained by the Indian tribe indicate that the individual was born in the United States is deemed to be a document described in this subparagraph for purposes of satisfying the requirements of this subsection.''.

(e) DEFINITIONS.—Section 2110(c) of such Act (42 U.S.C. 1397jj(c)) is amended by adding at the end the following new paragraph:

''(9) INDIAN; INDIAN HEALTH PROGRAM; INDIAN TRIBE; ETC.—The terms 'Indian', 'Indian Health Program', 'Indian Tribe', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

SEC. 204. PREMIUMS AND COST SHARING PROTECTIONS UNDER MEDICAID, ELIGIBILITY DETERMINATIONS UNDER MEDICAID AND SCHIP, AND PROTECTION OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.

(a) PREMIUMS AND COST SHARING PROTECTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''and (i)'' and inserting '', (i), and (j)''; and

(B) by adding at the end the following new subsection:

''(j) NO PREMIUMS OR COST SHARING FOR INDIANS FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN HEALTH PROGRAMS OR THROUGH REFERRAL UNDER THE CONTRACT HEALTH SERVICE.—

''(1) NO COST SHARING FOR INDIANS FURNISHED ITEMS OR SERVICES DIRECTLY BY OR THROUGH INDIAN HEALTH PROGRAMS.—

''(A) NO ENROLLMENT FEES, PREMIUMS, OR COPAYMENTS.—

''(i) IN GENERAL.—No enrollment fee, premium, or similar charge, and no deduction, copayment, cost sharing, or similar charge shall be imposed against an Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, a Tribal Organization, or an urban Indian organization, or by a health care provider through referral under the contract health service for which payment may be made under this title.

''(ii) EXCEPTION.—Clause (i) shall not apply to an individual only eligible for the programs or services under sections 102 and 103 or title V of the Indian Health Care Improvement Act.

''(B) NO REDUCTION IN AMOUNT OF PAYMENT TO INDIAN HEALTH PROVIDERS.—Payment due under this title to the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, or a health care provider through referral under the contract health service for the furnishing of an item or service to an Indian who is eligible for assistance under such title, may not be reduced by the amount of any enrollment fee, premium, or similar charge, or any deduction, copayment, cost sharing, or similar charge that would be due from the Indian but for the operation of subparagraph (A).

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as restricting the application of any other limitations on the imposition of premiums or cost sharing that may apply to an individual receiving medical assistance under this title who is an Indian.

''(3) DEFINITIONS.—In this subsection, the terms 'contract health service', 'Indian', 'Indian Tribe', 'Tribal Organization', and 'Urban Indian Organization' have the meanings given those terms in section 4 of the Indian Health Care Improvement Act.''.

(2) CONFORMING AMENDMENT.—Section 1916A(a)(1) of such Act (42 U.S.C. 1396o–1(a)(1)) is amended by striking ''section 1916(g)'' and inserting ''subsections (g), (i), or (j) of section 1916''.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on October 1, 2009.

(b) TREATMENT OF CERTAIN PROPERTY FOR MEDICAID AND SCHIP ELIGIBILITY.—

(1) MEDICAID.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new paragraph:

''(13) Notwithstanding any other requirement of this title or any other provision of Federal or State law, a State shall disregard the following property for purposes of determining the eligibility of an individual who is an Indian (as defined in section 4 of the Indian Health Care Improvement Act) for medical assistance under this title:

''(A) Property, including real property and improvements, that is held in trust, subject to Federal restrictions, or otherwise under the supervision of the Secretary of the Interior, located on a reservation, including any federally recognized Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act, and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior.

''(B) For any federally recognized Tribe not described in subparagraph (A), property located within the most recent boundaries of a prior Federal reservation.

''(C) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights.

''(D) Ownership interests in or usage rights to items not covered by subparagraphs (A) through (C) that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.''.

(2) APPLICATION TO SCHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended—

(A) by redesignating subparagraphs (B) through (E), as subparagraphs (C) through (F), respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

''(B) Section 1902(e)(13) (relating to disregard of certain property for purposes of making eligibility determinations).''.

(c) CONTINUATION OF CURRENT LAW PROTECTIONS OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.—Section

1917(b)(3) of the Social Security Act (42 U.S.C. 1396p(b)(3)) is amended—

(1) by inserting ''(A)'' after ''(3)''; and

(2) by adding at the end the following new subparagraph:

''(B) The standards specified by the Secretary under subparagraph (A) shall require that the procedures established by the State agency under subparagraph (A) exempt income, resources, and property that are exempt from the application of this subsection as of April 1, 2003, under manual instructions issued to carry out this subsection (as in effect on such date) because of the Federal responsibility for Indian Tribes and Alaska Native Villages. Nothing in this subparagraph shall be construed as preventing the Secretary from providing additional estate recovery exemptions under this title for Indians.''.

SEC. 205. NONDISCRIMINATION IN QUALIFICATIONS FOR PAYMENT FOR SERVICES UNDER FEDERAL HEALTH CARE PROGRAMS.

Section 1139 of the Social Security Act (42 U.S.C. 1320b–9), as amended by section 202, is amended by redesignating subsection (c) as subsection (d), and inserting after subsection (b) the following new subsection:

''(c) NONDISCRIMINATION IN QUALIFICATIONS FOR PAYMENT FOR SERVICES UNDER FEDERAL HEALTH CARE PROGRAMS.—

''(1) REQUIREMENT TO SATISFY GENERALLY APPLICABLE PARTICIPATION REQUIREMENTS.—

''(A) IN GENERAL.—A Federal health care program must accept an entity that is operated by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization as a provider eligible to receive payment under the program for health care services furnished to an Indian on the same basis as any other provider qualified to participate as a provider of health care services under the program if the entity meets generally applicable State or other requirements for participation as a provider of health care services under the program.

''(B) SATISFACTION OF STATE OR LOCAL LICENSURE OR RECOGNITION REQUIREMENTS.—Any requirement for participation as a provider of health care services under a Federal health care program that an entity be licensed or recognized under the State or local law where the entity is located to furnish health care services shall be deemed to have been met in the case of an entity operated by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization if the entity meets all the applicable standards for such licensure or recognition, regardless of whether the entity obtains a license or other documentation under such State or local law. In accordance with section 221 of the Indian Health Care Improvement Act, the absence of the licensure of a health care professional employed by such an entity under the State or local law where the entity is located shall not be taken into account for purposes of determining whether the entity meets such standards, if the professional is licensed in another State.

''(2) PROHIBITION ON FEDERAL PAYMENTS TO ENTITIES OR INDIVIDUALS EXCLUDED FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS OR WHOSE STATE LICENSES ARE UNDER SUSPENSION OR HAVE BEEN REVOKED.—

''(A) EXCLUDED ENTITIES.—No entity operated by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization that has been excluded from participation in any Federal health care program or for which a license is under suspension or has been revoked by the State where the entity is located shall be eligible to receive payment under any such program for health care services furnished to an Indian.

''(B) EXCLUDED INDIVIDUALS.—No individual who has been excluded from participation in any Federal health care program or whose State license is under suspension or has been revoked shall be eligible to receive payment under any such program for health care services furnished by that individual, directly or through an entity that is otherwise eligible to receive payment for health care services, to an Indian.

''(C) FEDERAL HEALTH CARE PROGRAM DEFINED.—In this subsection, the term, 'Federal health care program' has the meaning given that term in section 1128B(f), except that, for purposes of this subsection, such term shall include the health insurance program under chapter 89 of title 5, United States Code.''.

SEC. 206. CONSULTATION ON MEDICAID, SCHIP, AND OTHER HEALTH CARE PROGRAMS FUNDED UNDER THE SOCIAL SECURITY ACT INVOLVING INDIAN HEALTH PROGRAMS AND URBAN INDIAN ORGANIZATIONS.

(a) IN GENERAL.—Section 1139 of the Social Security Act (42 U.S.C. 1320b–9), as amended by sections 202 and 205, is amended by redesignating subsection (d) as subsection (e), and inserting after subsection (c) the following new subsection:

''(d) CONSULTATION WITH TRIBAL TECHNICAL ADVISORY GROUP (TTAG).—The Secretary shall maintain within the Centers for Medicaid & Medicare Services (CMS) a Tribal Technical Advisory Group, established in accordance with requirements of the charter dated September 30, 2003, and in such group shall include a representative of the Urban Indian Organizations and the Service. The representative of the Urban Indian Organization shall be deemed to be an elected officer of a tribal government for purposes of applying section 204(b) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534(b)).''.

(b) SOLICITATION OF ADVICE UNDER MEDICAID AND SCHIP.—

(1) MEDICAID STATE PLAN AMENDMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69), by striking ''and'' at the end;

(B) in paragraph (70)(B)(iv), by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (70)(B)(iv), the following new paragraph:

''(71) in the case of any State in which the Indian Health Service operates or funds health care programs, or in which 1 or more Indian Health Programs or Urban Indian Organizations (as such terms are defined in section 4 of the Indian Health Care Improvement Act) provide health care in the State for which medical assistance is available under such title, provide for a process under which the State seeks advice on a regular, ongoing basis from designees of such Indian Health Programs and Urban Indian Organizations on matters relating to the application of this title that are likely to have a direct effect on such Indian Health Programs and Urban Indian Organizations and that—

''(A) shall include solicitation of advice prior to submission of any plan amendments, waiver requests, and proposals for demonstration projects likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations; and

''(B) may include appointment of an advisory committee and of a designee of such Indian Health Programs and Urban Indian Organizations to the medical care advisory committee advising the State on its State plan under this title.''.

(2) APPLICATION TO SCHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by section 204(b)(2), is amended—

(A) by redesignating subparagraphs (B) through (F) as subparagraphs (C) through (G), respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

''(B) Section 1902(a)(71) (relating to the option of certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as superseding existing advisory committees, working groups, guidance, or other advisory procedures established by the Secretary of Health and Human Services or by any State with respect to the provision of health care to Indians.

(d) EFFECTIVE DATE.—This section and the amendments made by this section take effect on October 1, 2009.

SEC. 207. EXCLUSION WAIVER AUTHORITY FOR AFFECTED INDIAN HEALTH PROGRAMS AND SAFE HARBOR TRANSACTIONS UNDER THE SOCIAL SECURITY ACT.

(a) EXCLUSION WAIVER AUTHORITY.—Section 1128 of the Social Security Act (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

''(k) ADDITIONAL EXCLUSION WAIVER AUTHORITY FOR AFFECTED INDIAN HEALTH PROGRAMS.—In addition to the authority granted the Secretary under subsections (c)(3)(B) and (d)(3)(B) to waive an exclusion under subsection (a)(1), (a)(3), (a)(4), or (b), the Secretary may, in the case of an Indian Health Program, waive such an exclusion upon the request of the administrator of an affected Indian Health Program (as defined in section 4 of the Indian Health Care Improvement Act) who determines that the exclusion would impose a hardship on individuals entitled to benefits under or enrolled in a Federal health care program.''.

(b) CERTAIN TRANSACTIONS INVOLVING INDIAN HEALTH CARE PROGRAMS DEEMED TO BE IN SAFE HARBORS.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following new paragraph:

''(4) Subject to such conditions as the Secretary may promulgate from time to time as necessary to prevent fraud and abuse, for purposes of paragraphs (1) and (2) and section 1128A(a), the following transfers shall not be treated as remuneration:

''(A) TRANSFERS BETWEEN INDIAN HEALTH PROGRAMS, INDIAN TRIBES, TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.—Transfers of anything of value between or among an Indian Health Program, Indian Tribe, Tribal Organization, or Urban Indian Organization, that are made for the purpose of providing necessary health care items and services to any patient served by such Program, Tribe, or Organization and that consist of—

''(i) services in connection with the collection, transport, analysis, or interpretation of diagnostic specimens or test data;

''(ii) inventory or supplies;

''(iii) staff; or

''(iv) a waiver of all or part of premiums or cost sharing.

''(B) TRANSFERS BETWEEN INDIAN HEALTH PROGRAMS, INDIAN TRIBES, TRIBAL ORGANIZATIONS, OR URBAN INDIAN ORGANIZATIONS AND PATIENTS.—Transfers of anything of value between an Indian Health Program, Indian Tribe, Tribal Organization, or Urban Indian Organization and any patient served or eligible for service from an Indian Health Program, Indian Tribe, Tribal Organization, or Urban Indian Organization, including any patient served or eligible for service pursuant to section 807 of the Indian Health Care Improvement Act, but only if such transfers—

''(i) consist of expenditures related to providing transportation for the patient for the provision of necessary health care items or services, provided that the provision of such

transportation is not advertised, nor an incentive of which the value is disproportionately large in relationship to the value of the health care item or service (with respect to the value of the item or service itself or, for preventative items or services, the future health care costs reasonably expected to be avoided);

''(ii) consist of expenditures related to providing housing to the patient (including a pregnant patient) and immediate family members or an escort necessary to assuring the timely provision of health care items and services to the patient, provided that the provision of such housing is not advertised nor an incentive of which the value is disproportionately large in relationship to the value of the health care item or service (with respect to the value of the item or service itself or, for preventative items or services, the future health care costs reasonably expected to be avoided); or

''(iii) are for the purpose of paying premiums or cost sharing on behalf of such a patient, provided that the making of such payment is not subject to conditions other than conditions agreed to under a contract for the delivery of contract health services.

''(C) CONTRACT HEALTH SERVICES.—A transfer of anything of value negotiated as part of a contract entered into between an Indian Health Program, Indian Tribe, Tribal Organization, Urban Indian Organization, or the Indian Health Service and a contract care provider for the delivery of contract health services authorized by the Indian Health Service, provided that—

''(i) such a transfer is not tied to volume or value of referrals or other business generated by the parties; and

''(ii) any such transfer is limited to the fair market value of the health care items or services provided or, in the case of a transfer of items or services related to preventative care, the value of the future health care costs reasonably expected to be avoided.

''(D) OTHER TRANSFERS.—Any other transfer of anything of value involving an Indian Health Program, Indian Tribe, Tribal Organization, or Urban Indian Organization, or a patient served or eligible for service from an Indian Health Program, Indian Tribe, Tribal Organization, or Urban Indian Organization, that the Secretary, in consultation with the Attorney General, determines is appropriate, taking into account the special circumstances of such Indian Health Programs, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, and of patients served by such Programs, Tribes, and Organizations.''.

SEC. 208. RULES APPLICABLE UNDER MEDICAID AND SCHIP TO MANAGED CARE ENTITIES WITH RESPECT TO INDIAN ENROLLEES AND INDIAN HEALTH CARE PROVIDERS AND INDIAN MANAGED CARE ENTITIES.

(a) IN GENERAL.—Section 1932 of the Social Security Act (42 U.S.C. 1396u–2) is amended by adding at the end the following new subsection:

''(h) SPECIAL RULES WITH RESPECT TO INDIAN ENROLLEES, INDIAN HEALTH CARE PROVIDERS, AND INDIAN MANAGED CARE ENTITIES.—

''(1) ENROLLEE OPTION TO SELECT AN INDIAN HEALTH CARE PROVIDER AS PRIMARY CARE PROVIDER.—In the case of a non-Indian Medicaid managed care entity that—

''(A) has an Indian enrolled with the entity; and

''(B) has an Indian health care provider that is participating as a primary care provider within the network of the entity,

insofar as the Indian is otherwise eligible to receive services from such Indian health care provider and the Indian health care provider has the capacity to provide primary care services to such Indian, the contract with the entity under section 1903(m) or under section 1905(t)(3) shall require, as a condition of receiving payment under such contract, that the Indian shall be allowed to choose such Indian health care provider as the Indian's primary care provider under the entity.

''(2) ASSURANCE OF PAYMENT TO INDIAN HEALTH CARE PROVIDERS FOR PROVISION OF COVERED SERVICES.—Each contract with a managed care entity under section 1903(m) or under section 1905(t)(3) shall require any such entity that has a significant percentage of Indian enrollees (as determined by the Secretary), as a condition of receiving payment under such contract to satisfy the following requirements:

''(A) DEMONSTRATION OF PARTICIPATING INDIAN HEALTH CARE PROVIDERS OR APPLICATION OF ALTERNATIVE PAYMENT ARRANGEMENTS.—Subject to subparagraph (E), to—

''(i) demonstrate that the number of Indian health care providers that are participating providers with respect to such entity are sufficient to ensure timely access to covered Medicaid managed care services for those enrollees who are eligible to receive services from such providers; or

''(ii) agree to pay Indian health care providers who are not participating providers with the entity for covered Medicaid managed care services provided to those enrollees who are eligible to receive services from such providers at a rate equal to the rate negotiated between such entity and the provider involved or, if such a rate has not been negotiated, at a rate that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a participating provider which is not an Indian health care provider.

''(B) PROMPT PAYMENT.—To agree to make prompt payment (in accordance with rules applicable to managed care entities) to Indian health care providers that are participating providers with respect to such entity or, in the case of an entity to which subparagraph (A)(ii) or (E) applies, that the entity is required to pay in accordance with that subparagraph.

''(C) SATISFACTION OF CLAIM REQUIREMENT.—To deem any requirement for the submission of a claim or other documentation for services covered under subparagraph (A) by the enrollee to be satisfied through the submission of a claim or other documentation by an Indian health care provider that is consistent with section 403(h) of the Indian Health Care Improvement Act.

''(D) COMPLIANCE WITH GENERALLY APPLICABLE REQUIREMENTS.—

''(i) IN GENERAL.—Subject to clause (ii), as a condition of payment under subparagraph (A), an Indian health care provider shall comply with the generally applicable requirements of this title, the State plan, and such entity with respect to covered Medicaid managed care services provided by the Indian health care provider to the same extent that non-Indian providers participating with the entity must comply with such requirements.

''(ii) LIMITATIONS ON COMPLIANCE WITH MANAGED CARE ENTITY GENERALLY APPLICABLE REQUIREMENTS.—An Indian health care provider—

''(I) shall not be required to comply with a generally applicable requirement of a managed care entity described in clause (i) as a condition of payment under subparagraph (A) if such compliance would conflict with any other statutory or regulatory requirements applicable to the Indian health care provider; and

''(II) shall only need to comply with those generally applicable requirements of a managed care entity described in clause (i) as a condition of payment under subparagraph (A) that are necessary for the entity's compliance with the State plan, such as those related to care management, quality assurance, and utilization management.

''(E) APPLICATION OF SPECIAL PAYMENT REQUIREMENTS FOR FEDERALLY-QUALIFIED HEALTH CENTERS AND ENCOUNTER RATE FOR SERVICES PROVIDED BY CERTAIN INDIAN HEALTH CARE PROVIDERS.—

''(i) FEDERALLY-QUALIFIED HEALTH CENTERS.—

''(I) MANAGED CARE ENTITY PAYMENT REQUIREMENT.—To agree to pay any Indian health care provider that is a Federally-qualified health center but not a participating provider with respect to the entity, for the provision of covered Medicaid managed care services by such provider to an Indian enrollee of the entity at a rate equal to the amount of payment that the entity would pay a Federally-qualified health center that is a participating provider with respect to the entity but is not an Indian health care provider for such services.

''(II) CONTINUED APPLICATION OF STATE REQUIREMENT TO MAKE SUPPLEMENTAL PAYMENT.—Nothing in subclause (I) or subparagraph (A) or (B) shall be construed as waiving the application of section 1902(bb)(5) regarding the State plan requirement to make any supplemental payment due under such section to a Federally-qualified health center for services furnished by such center to an enrollee of a managed care entity (regardless of whether the Federally-qualified health center is or is not a participating provider with the entity).

''(ii) CONTINUED APPLICATION OF ENCOUNTER RATE FOR SERVICES PROVIDED BY CERTAIN INDIAN HEALTH CARE PROVIDERS.—If the amount paid by a managed care entity to an Indian health care provider that is not a Federally-qualified health center and that has elected to receive payment under this title as an Indian Health Service provider under the July 11, 1996, Memorandum of Agreement between the Health Care Financing Administration (now the Centers for Medicare & Medicaid Services) and the Indian Health Service for services provided by such provider to an Indian enrollee with the managed care entity is less than the encounter rate that applies to the provision of such services under such memorandum, the State plan shall provide for payment to the Indian health care provider of the difference between the applicable encounter rate under such memorandum and the amount paid by the managed care entity to the provider for such services.

''(F) CONSTRUCTION.—Nothing in this paragraph shall be construed as waiving the application of section 1902(a)(30)(A) (relating to application of standards to assure that payments are consistent with efficiency, economy, and quality of care).

''(3) OFFERING OF MANAGED CARE THROUGH INDIAN MEDICAID MANAGED CARE ENTITIES.—If—

''(A) a State elects to provide services through Medicaid managed care entities under its Medicaid managed care program; and

''(B) an Indian health care provider that is funded in whole or in part by the Indian Health Service, or a consortium composed of 1 or more Tribes, Tribal Organizations, or Urban Indian Organizations, and which also may include the Indian Health Service, has established an Indian Medicaid managed care entity in the State that meets generally applicable standards required of such an entity under such Medicaid managed care program, the State shall offer to enter into an agreement with the entity to serve as a Medicaid managed care entity with respect to eligible Indians served by such entity under such program.

''(4) SPECIAL RULES FOR INDIAN MANAGED CARE ENTITIES.—The following are special rules regarding the application of a Medicaid managed care program to Indian Medicaid managed care entities:

''(A) ENROLLMENT.—

''(i) LIMITATION TO INDIANS.—An Indian Medicaid managed care entity may restrict enrollment under such program to Indians and to members of specific Tribes in the same manner as Indian Health Programs may restrict the delivery of services to such Indians and tribal members.

''(ii) NO LESS CHOICE OF PLANS.—Under such program the State may not limit the choice of an Indian among Medicaid managed care entities only to Indian Medicaid managed care entities or to be more restrictive than the choice of managed care entities offered to individuals who are not Indians.

''(iii) DEFAULT ENROLLMENT.—

''(I) IN GENERAL.—If such program of a State requires the enrollment of Indians in a Medicaid managed care entity in order to receive benefits, the State, taking into consideration the criteria specified in subsection (a)(4)(D)(ii)(I), shall provide for the enrollment of Indians described in subclause (II) who are not otherwise enrolled with such an entity in an Indian Medicaid managed care entity described in such clause.

''(II) INDIAN DESCRIBED.—An Indian described in this subclause, with respect to an Indian Medicaid managed care entity, is an Indian who, based upon the service area and capacity of the entity, is eligible to be enrolled with the entity consistent with subparagraph (A).

''(iv) EXCEPTION TO STATE LOCK-IN.—A request by an Indian who is enrolled under such program with a non-Indian Medicaid managed care entity to change enrollment with that entity to enrollment with an Indian Medicaid managed care entity shall be considered cause for granting such request under procedures specified by the Secretary.

''(B) FLEXIBILITY IN APPLICATION OF SOLVENCY.—In applying section 1903(m)(1) to an Indian Medicaid managed care entity—

''(i) any reference to a 'State' in subparagraph (A)(ii) of that section shall be deemed to be a reference to the 'Secretary'; and

''(ii) the entity shall be deemed to be a public entity described in subparagraph (C)(ii) of that section.

''(C) EXCEPTIONS TO ADVANCE DIRECTIVES.—The Secretary may modify or waive the requirements of section 1902(w) (relating to provision of written materials on advance directives) insofar as the Secretary finds that the requirements otherwise imposed are not an appropriate or effective way of communicating the information to Indians.

''(D) FLEXIBILITY IN INFORMATION AND MARKETING.—

''(i) MATERIALS.—The Secretary may modify requirements under subsection (a)(5) to ensure that information described in that subsection is provided to enrollees and potential enrollees of Indian Medicaid managed care entities in a culturally appropriate and understandable manner that clearly communicates to such enrollees and potential enrollees their rights, protections, and benefits.

''(ii) DISTRIBUTION OF MARKETING MATERIALS.—The provisions of subsection (d)(2)(B) requiring the distribution of marketing materials to an entire service area shall be deemed satisfied in the case of an Indian Medicaid managed care entity that distributes appropriate materials only to those Indians who are potentially eligible to enroll with the entity in the service area.

''(5) MALPRACTICE INSURANCE.—Insofar as, under a Medicaid managed care program, a health care provider is required to have medical malpractice insurance coverage as a condition of contracting as a provider with a Medicaid managed care entity, an Indian health care provider that is—

''(A) a Federally-qualified health center that is covered under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671 et seq.);

''(B) providing health care services pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) that are covered under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671 et seq.); or

''(C) the Indian Health Service providing health care services that are covered under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671 et seq.);

are deemed to satisfy such requirement.

''(6) DEFINITIONS.—For purposes of this subsection:

''(A) INDIAN HEALTH CARE PROVIDER.—The term 'Indian health care provider' means an Indian Health Program or an Urban Indian Organization.

''(B) INDIAN; INDIAN HEALTH PROGRAM; SERVICE; TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian Health Program', 'Service', 'Tribe', 'tribal organization', 'Urban Indian Organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act.

''(C) INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'Indian Medicaid managed care entity' means a managed care entity that is controlled (within the meaning of the last sentence of section 1903(m)(1)(C)) by the Indian Health Service, a Tribe, Tribal Organization, or Urban Indian Organization, or a consortium, which may be composed of 1 or more Tribes, Tribal Organizations, or Urban Indian Organizations, and which also may include the Service.

''(D) NON-INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'non-Indian Medicaid managed care entity' means a managed care entity that is not an Indian Medicaid managed care entity.

''(E) COVERED MEDICAID MANAGED CARE SERVICES.—The term 'covered Medicaid managed care services' means, with respect to an individual enrolled with a managed care entity, items and services that are within the scope of items and services for which benefits are available with respect to the individual under the contract between the entity and the State involved.

''(F) MEDICAID MANAGED CARE PROGRAM.—The term 'Medicaid managed care program' means a program under sections 1903(m) and 1932 and includes a managed care program operating under a waiver under section 1915(b) or 1115 or otherwise.''.

(b) APPLICATION TO SCHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(1)), as amended by section 206(b)(2), is amended by adding at the end the following new subparagraph:

''(H) Subsections (a)(2)(C) and (h) of section 1932.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section take effect on October 1, 2009.

SEC. 209. ANNUAL REPORT ON INDIANS SERVED BY SOCIAL SECURITY ACT HEALTH BENEFIT PROGRAMS.

Section 1139 of the Social Security Act (42 U.S.C. 1320b–9), as amended by the sections 202, 205, and 206, is amended by redesignating subsection (e) as subsection (f), and inserting after subsection (d) the following new subsection:

''(e) ANNUAL REPORT ON INDIANS SERVED BY HEALTH BENEFIT PROGRAMS FUNDED UNDER THIS ACT.—Beginning January 1, 2008, and annually thereafter, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services and the Director of the Indian Health Service, shall submit a report to Congress regarding the enrollment and health status of Indians receiving items or services under health benefit programs funded under this Act during the preceding year. Each such report shall include the following:

''(1) The total number of Indians enrolled in, or receiving items or services under, such programs, disaggregated with respect to each such program.

''(2) The number of Indians described in paragraph (1) that also received health benefits under programs funded by the Indian Health Service.

''(3) General information regarding the health status of the Indians described in paragraph (1), disaggregated with respect to specific diseases or conditions and presented in a manner that is consistent with protections for privacy of individually identifiable health information under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

''(4) A detailed statement of the status of facilities of the Indian Health Service or an Indian Tribe, Tribal Organization, or an Urban Indian Organization with respect to such facilities' compliance with the applicable conditions and requirements of titles XVIII, XIX, and XXI, and, in the case of title XIX or XXI, under a State plan under such title or under waiver authority, and of the progress being made by such facilities (under plans submitted under section 1880(b), 1911(b) or otherwise) toward the achievement and maintenance of such compliance.

''(5) Such other information as the Secretary determines is appropriate.''.

SEC. 210. DEVELOPMENT OF RECOMMENDATIONS TO IMPROVE INTERSTATE COORDINATION OF MEDICAID AND SCHIP COVERAGE OF INDIAN CHILDREN AND OTHER CHILDREN WHO ARE OUTSIDE OF THEIR STATE OF RESIDENCY BECAUSE OF EDUCATIONAL OR OTHER NEEDS.

(a) STUDY.—The Secretary shall conduct a study to identify barriers to interstate coordination of enrollment and coverage under the Medicaid program under title XIX of the Social Security Act and the State Children's Health Insurance Program under title XXI of such Act of children who are eligible for medical assistance or child health assistance under such programs and who, because of educational needs, migration of families, emergency evacuations, or otherwise, frequently change their State of residency or otherwise are temporarily present outside of the State of their residency. Such study shall include an examination of the enrollment and coverage coordination issues faced by Indian children who are eligible for medical assistance or child health assistance under such programs in their State of residence and who temporarily reside in an out-of-State boarding school or peripheral dormitory funded by the Bureau of Indian Affairs.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with directors of State Medicaid programs under title XIX of the Social Security Act and directors of State Children's Health Insurance Programs under title XXI of such Act, shall submit a report to Congress that contains recommendations for such legislative and administrative actions as the Secretary determines appropriate to address the enrollment and coverage coordination barriers identified through the study required under subsection (a).

SEC. 211. ESTABLISHMENT OF NATIONAL CHILD WELFARE RESOURCE CENTER FOR TRIBES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a

National Child Welfare Resource Center for Tribes that is—

(1) specifically and exclusively dedicated to meeting the needs of Indian tribes and tribal organizations through the provision of assistance described in subsection (b); and

(2) not part of any existing national child welfare resource center.

(b) ASSISTANCE PROVIDED.—

(1) IN GENERAL.—The National Child Welfare Resource Center for Tribes shall provide information, advice, educational materials, and technical assistance to Indian tribes and tribal organizations with respect to the types of services, administrative functions, data collection, program management, and reporting that are provided for under State plans under parts B and E of title IV of the Social Security Act.

(2) IMPLEMENTATION AUTHORITY.—The Secretary may provide the assistance described in paragraph (1) either directly or through grant or contract with public or private organizations knowledgeable and experienced in the field of Indian tribal affairs and child welfare.

(c) APPROPRIATIONS.—There is appropriated to the Secretary of Health and Human Services, out of any money in the Treasury of the United States not otherwise appropriated, $1,000,000 for each of fiscal years 2009 through 2013 to carry out the purposes of this section.

SEC. 212. ADJUSTMENT TO THE MEDICARE ADVANTAGE STABILIZATION FUND.

Section 1858(e)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395w–27a(e)(2)(A)(i)), as amended by section 110 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking ''$1,790,000,000'' and inserting ''$1,657,000,000''.

SEC. 213. MORATORIUM ON IMPLEMENTATION OF CHANGES TO CASE MANAGEMENT AND TARGETED CASE MANAGEMENT PAYMENT REQUIREMENTS UNDER MEDICAID.

(a) MORATORIUM.—

(1) DELAYED IMPLEMENTATION OF DECEMBER 4, 2007, INTERIM FINAL RULE.—The interim final rule published on December 4, 2007, at pages 68,077 through 68,093 of volume 72 of the Federal Register (relating to parts 431, 440, and 441 of title 42 of the Code of Federal Regulations) shall not take effect before April 1, 2009.

(2) CONTINUATION OF 2007 PAYMENT POLICIES AND PRACTICES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy or practice, including a Medical Assistance Manual transmittal or issuance of a letter to State Medicaid directors) to restrict coverage or payment under title XIX of the Social Security Act for case management and targeted case management services if such action is more restrictive than the administrative action, policy, or practice that applies to coverage of, or payment for, such services under title XIX of the Social Security Act on December 3, 2007. Any such action taken by the Secretary of Health and Human Services during the period that begins on December 4, 2007, and ends on March 31, 2009, that is based in whole or in part on the interim final rule described in subsection (a) is null and void.

(b) INCLUSION OF MEDICARE PROVIDERS AND SUPPLIERS IN FEDERAL PAYMENT LEVY AND ADMINISTRATIVE OFFSET PROGRAM.—

(1) IN GENERAL.—Section 1874 of the Social Security Act (42 U.S.C. 1395kk) is amended by adding at the end the following new subsection:

''(d) INCLUSION OF MEDICARE PROVIDER AND SUPPLIER PAYMENTS IN FEDERAL PAYMENT LEVY PROGRAM.—

''(1) IN GENERAL.—The Centers for Medicare & Medicaid Services shall take all necessary steps to participate in the Federal Payment Levy Program under section 6331(h) of the Internal Revenue Code of 1986 as soon as possible and shall ensure that—

''(A) at least 50 percent of all payments under parts A and B are processed through such program beginning within 1 year after the date of the enactment of this section;

''(B) at least 75 percent of all payments under parts A and B are processed through such program beginning within 2 years after such date; and

''(C) all payments under parts A and B are processed through such program beginning not later than September 30, 2011.

''(2) ASSISTANCE.—The Financial Management Service and the Internal Revenue Service shall provide assistance to the Centers for Medicare & Medicaid Services to ensure that all payments described in paragraph (1) are included in the Federal Payment Levy Program by the deadlines specified in that subsection.''.

(2) APPLICATION OF ADMINISTRATIVE OFFSET PROVISIONS TO MEDICARE PROVIDER OR SUPPLIER PAYMENTS.—Section 3716 of title 31, United States Code, is amended—

(A) by inserting ''the Department of Health and Human Services,'' after ''United States Postal Service,'' in subsection (c)(1)(A); and

(B) by adding at the end of subsection (c)(3) the following new subparagraph:

''(D) This section shall apply to payments made after the date which is 90 days after the enactment of this subparagraph (or such earlier date as designated by the Secretary of Health and Human Services) with respect to claims or debts, and to amounts payable, under title XVIII of the Social Security Act.''.

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

SEC. 214. INCREASED CIVIL MONEY PENALTIES AND CRIMINAL FINES FOR MEDICARE FRAUD AND ABUSE.

(a) INCREASED CIVIL MONEY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended—

(1) in subsection (a), in the flush matter following paragraph (7)—

(A) by striking ''$10,000'' each place it appears and inserting ''$20,000'';

(B) by striking ''$15,000'' and inserting ''$30,000''; and

(C) by striking ''$50,000'' and inserting ''$100,000''; and

(2) in subsection (b)—

(A) in paragraph (1), in the flush matter following subparagraph (B), by striking ''$2,000'' and inserting ''$4,000'';

(B) in paragraph (2), by striking ''$2,000'' and inserting ''$4,000''; and

(C) in paragraph (3)(A)(i), by striking ''$5,000'' and inserting ''$10,000''.

(b) INCREASED CRIMINAL FINES.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended—

(1) in subsection (a), in the flush matter following paragraph (6)—

(A) by striking ''$25,000'' and inserting ''$100,000''; and

(B) by striking ''$10,000'' and inserting ''$20,000'';

(2) in subsection (b)—

(A) in paragraph (1), in the flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000''; and

(B) in paragraph (2), in the flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000'';

(3) in subsection (c), by striking ''$25,000'' and inserting ''$100,000'';

(4) in subsection (d), in the second flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000''; and

(5) in subsection (e), by striking ''$2,000'' and inserting ''$4,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to civil money penalties and fines imposed for actions taken on or after the date of enactment of this Act.

SEC. 215. INCREASED SENTENCES FOR FELONIES INVOLVING MEDICARE FRAUD AND ABUSE.

(a) FALSE STATEMENTS AND REPRESENTATIONS.—Section 1128B(a) of the Social Security Act (42 U.S.C. 1320a–7b(a)) is amended, in clause (i) of the flush matter following paragraph (6), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(b) ANTI-KICKBACK.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended—

(1) in paragraph (1), in the flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''; and

(2) in paragraph (2), in the flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(c) FALSE STATEMENT OR REPRESENTATION WITH RESPECT TO CONDITIONS OR OPERATIONS OF FACILITIES.—Section 1128B(c) of the Social Security Act (42 U.S.C. 1320a–7b(c)) is amended by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(d) EXCESS CHARGES.—Section 1128B(d) of the Social Security Act (42 U.S.C. 1320a–7b(d)) is amended, in the second flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to criminal penalties imposed for actions taken on or after the date of enactment of this Act.

TITLE III—MISCELLANEOUS

SEC. 301. RESOLUTION OF APOLOGY TO NATIVE PEOPLES OF UNITED STATES.

(a) FINDINGS.—Congress finds that—

(1) the ancestors of today's Native Peoples inhabited the land of the present-day United States since time immemorial and for thousands of years before the arrival of people of European descent;

(2) for millennia, Native Peoples have honored, protected, and stewarded this land we cherish;

(3) Native Peoples are spiritual people with a deep and abiding belief in the Creator, and for millennia Native Peoples have maintained a powerful spiritual connection to this land, as evidenced by their customs and legends;

(4) the arrival of Europeans in North America opened a new chapter in the history of Native Peoples;

(5) while establishment of permanent European settlements in North America did stir conflict with nearby Indian tribes, peaceful and mutually beneficial interactions also took place;

(6) the foundational English settlements in Jamestown, Virginia, and Plymouth, Massachusetts, owed their survival in large measure to the compassion and aid of Native Peoples in the vicinities of the settlements;

(7) in the infancy of the United States, the founders of the Republic expressed their desire for a just relationship with the Indian tribes, as evidenced by the Northwest Ordinance enacted by Congress in 1787, which begins with the phrase, ''The utmost good faith shall always be observed toward the Indians'';

(8) Indian tribes provided great assistance to the fledgling Republic as it strengthened

and grew, including invaluable help to Meriwether Lewis and William Clark on their epic journey from St. Louis, Missouri, to the Pacific Coast;

(9) Native Peoples and non-Native settlers engaged in numerous armed conflicts in which unfortunately, both took innocent lives, including those of women and children;

(10) the Federal Government violated many of the treaties ratified by Congress and other diplomatic agreements with Indian tribes;

(11) the United States forced Indian tribes and their citizens to move away from their traditional homelands and onto federally established and controlled reservations, in accordance with such Acts as the Act of May 28, 1830 (4 Stat. 411, chapter 148) (commonly known as the ''Indian Removal Act'');

(12) many Native Peoples suffered and perished—

(A) during the execution of the official Federal Government policy of forced removal, including the infamous Trail of Tears and Long Walk;

(B) during bloody armed confrontations and massacres, such as the Sand Creek Massacre in 1864 and the Wounded Knee Massacre in 1890; and

(C) on numerous Indian reservations;

(13) the Federal Government condemned the traditions, beliefs, and customs of Native Peoples and endeavored to assimilate them by such policies as the redistribution of land under the Act of February 8, 1887 (25 U.S.C. 331; 24 Stat. 388, chapter 119) (commonly known as the ''General Allotment Act''), and the forcible removal of Native children from their families to faraway boarding schools where their Native practices and languages were degraded and forbidden;

(14) officials of the Federal Government and private United States citizens harmed Native Peoples by the unlawful acquisition of recognized tribal land and the theft of tribal resources and assets from recognized tribal land;

(15) the policies of the Federal Government toward Indian tribes and the breaking of covenants with Indian tribes have contributed to the severe social ills and economic troubles in many Native communities today;

(16) despite the wrongs committed against Native Peoples by the United States, Native Peoples have remained committed to the protection of this great land, as evidenced by the fact that, on a per capita basis, more Native Peoples have served in the United States Armed Forces and placed themselves in harm's way in defense of the United States in every major military conflict than any other ethnic group;

(17) Indian tribes have actively influenced the public life of the United States by continued cooperation with Congress and the Department of the Interior, through the involvement of Native individuals in official Federal Government positions, and by leadership of their own sovereign Indian tribes;

(18) Indian tribes are resilient and determined to preserve, develop, and transmit to future generations their unique cultural identities;

(19) the National Museum of the American Indian was established within the Smithsonian Institution as a living memorial to Native Peoples and their traditions; and

(20) Native Peoples are endowed by their Creator with certain unalienable rights, and among those are life, liberty, and the pursuit of happiness.

(b) ACKNOWLEDGMENT AND APOLOGY.—The United States, acting through Congress—

(1) recognizes the special legal and political relationship Indian tribes have with the United States and the solemn covenant with the land we share;

(2) commends and honors Native Peoples for the thousands of years that they have stewarded and protected this land;

(3) recognizes that there have been years of official depredations, ill-conceived policies, and the breaking of covenants by the Federal Government regarding Indian tribes;

(4) apologizes on behalf of the people of the United States to all Native Peoples for the many instances of violence, maltreatment, and neglect inflicted on Native Peoples by citizens of the United States;

(5) expresses its regret for the ramifications of former wrongs and its commitment to build on the positive relationships of the past and present to move toward a brighter future where all the people of this land live reconciled as brothers and sisters, and harmoniously steward and protect this land together;

(6) urges the President to acknowledge the wrongs of the United States against Indian tribes in the history of the United States in order to bring healing to this land; and

(7) commends the State governments that have begun reconciliation efforts with recognized Indian tribes located in their boundaries and encourages all State governments similarly to work toward reconciling relationships with Indian tribes within their boundaries.

(c) DISCLAIMER.—Nothing in this section—

(1) authorizes or supports any claim against the United States; or

(2) serves as a settlement of any claim against the United States.

CALLING FOR PEACE IN DARFUR

Mr. PRYOR. I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S. Res. 455 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 455) calling for peace in Darfur.

There being no objection, the Senate proceeded to consider the resolution.

Mr. PRYOR. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 455) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 455

Whereas, during the past 4 years in Darfur, hundreds of thousands of innocent victims have been murdered, tortured, and raped, with more than 2,000,000 people driven from their homes;

Whereas some but not all of the parties to the conflict in Darfur participated in the first round of a United Nations-African Union peace process launched in October 2007 in Sirte, Libya;

Whereas the Comprehensive Peace Agreement (CPA) reached between the Government of Sudan and the Sudanese People's Liberation Movement (SPLM) in January 2005 has not been fully or evenly implemented;

Whereas the Government of Sudan has continued to obstruct the deployment of a joint United Nations-African Union peacekeeping force to Darfur that would include non-African elements;

Whereas elements of armed rebel movements in Darfur, including the Justice and Equality Movement (JEM), have made violent threats against the deploying peacekeeping force;

Whereas 13 former world leaders and current activists, including former president Jimmy Carter, former United Nations Secretary-General Kofi Annan, Bangladeshi microfinance champion Muhammed Yunus, and Archbishop Desmond Tutu, have called for the immediate deployment of the peacekeeping force; and

Whereas, while these and other issues remain pending, it is the people of Darfur, including those living in refugee camps, who suffer the continuing consequences: Now, therefore, be it

Resolved, That the Senate—

(1) calls upon the Government of Sudan and other signatories and non-signatories to the May 5, 2006, Darfur Peace Agreement to declare and respect an immediate cessation of hostilities, cease distributing arms to internally displaced persons, and enable humanitarian organizations to have full unfettered access to populations in need;

(2) calls upon the Government of Sudan to facilitate the immediate and unfettered deployment of the United Nations-African Union peacekeeping force, including any and all non-African peacekeepers;

(3) urges all invited individuals and movements to attend the next round of peace negotiations and not set preconditions for such participation;

(4) calls upon the diverse rebel movements to set aside their differences and work together in order to better represent the people of Darfur and end their continued suffering;

(5) encourages the participation in future talks of traditional Arab and African leaders from Darfur, women's groups, local nongovernmental organizations, and leaders from internally displaced persons (IDP) camps;

(6) condemns any intimidation or threats against camp or civil society leaders to discourage them from attending the peace talks, whether by the Government of Sudan or rebel leaders;

(7) condemns any action by any party, government or rebel, that undermines or delays the peace process in Darfur; and

(8) calls upon all parties to the Comprehensive Peace Agreement (CPA) to support and respect all terms of the agreement.

HONORING THE NAACP ON ITS 99TH ANNIVERSARY

Mr. PRYOR. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 289, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 289) honoring and praising the National Association for the Advancement of Colored People on the occasion of its 99th anniversary.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. PRYOR. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 289) was agreed to.

The preamble was agreed to.

NATIONAL ASBESTOS AWARENESS WEEK

Mr. PRYOR. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 462, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 462) designating the week of April 2008 as ''National Asbestos Awareness Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. PRYOR. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 462) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 462

Whereas dangerous asbestos fibers are invisible and cannot be smelled or tasted;

Whereas the inhalation of airborne asbestos fibers can cause significant damage;

Whereas these fibers can cause mesothelioma, asbestosis, and other health problems;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival time for those diagnosed with mesothelioma is between 6 and 24 months;

Whereas generally little is known about late stage treatment and there is no cure for asbestos-related diseases;

Whereas early detection of asbestos-related diseases may give some patients increased treatment options and might improve their prognosis;

Whereas the United States has substantially reduced its consumption of asbestos yet continues to consume almost 2,000 metric tons of the fibrous mineral for use in certain products throughout the Nation;

Whereas asbestos-related diseases have killed thousands of people in the United States;

Whereas asbestos exposures continue and safety and prevention will reduce and has reduced significantly asbestos exposure and asbestos-related diseases;

Whereas asbestos has been a cause of occupational cancer;

Whereas thousands of workers in the United States face significant asbestos exposure;

Whereas thousands of people in the United States die from asbestos-related diseases every year;

Whereas a significant percentage of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of a significant number of office buildings and public facilities built before 1975;

Whereas people in the small community of Libby, Montana have asbestos-related diseases at a significantly higher rate than the national average and suffer from mesothelioma at a significantly higher rate than the national average; and

Whereas the establishment of a ''National Asbestos Awareness Week'' would raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

Resolved, That the Senate—

(1) designates the first week of April 2008 as ''National Asbestos Awareness Week'';

(2) urges the Surgeon General, as a public health issue, to warn and educate people that asbestos exposure may be hazardous to their health; and

(3) respectfully requests the Secretary of the Senate to transmit a copy of this resolution to the Surgeon General.

NATIONAL SUPPORT THE TROOPS AND THEIR FAMILIES DAY

Mr. PRYOR. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 473, submitted earlier today by Senator STABENOW.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 473) designating March 26, 2008, as ''National Support the Troops and Their Families Day'' and encouraging the people of the United States to participate in a moment of silence to reflect upon the service and sacrifice of members of the Armed Forces both at home and abroad, as well as the sacrifices of their families.

There being no objection, the Senate proceeded to consider the resolution.

Mr. PRYOR. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate; and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 473) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 473

Whereas it was through the brave and noble efforts of the Nation's forefathers that the United States first gained freedom and became a sovereign country;

Whereas there are more than 1,500,000 active and reserve component members of the Armed Forces serving the Nation in support and defense of the values and freedom that all Americans cherish;

Whereas the members of the Armed Forces deserve the utmost respect and admiration of their fellow Americans for putting their lives in danger for the sake of the freedoms enjoyed by all Americans;

Whereas members of the Armed Forces are defending freedom and democracy around the globe and are playing a vital role in protecting the safety and security of Americans;

Whereas the families of our Nation's troops have made great sacrifices and deserve the support of all Americans;

Whereas all Americans should participate in a moment of silence to support the troops and their families; and

Whereas March 26th, 2008, is designated as ''National Support Our Troops and Their Families Day'': Now, therefore, be it

Resolved, That—

(1) the Senate designates March 26, 2008, as ''National Support the Troops and Their Families Day''; and

(2) it is the sense of the Senate that all Americans should participate in a moment of silence to reflect upon the service and sacrifice of members of the United States Armed Forces both at home and abroad, as well as their families.

NATIONAL SCHOOL BREAKFAST PROGRAM

Mr. PRYOR. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 474, submitted earlier today by Senator FEINGOLD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 474) expressing the sense of the Senate that providing breakfast in schools through the National School Breakfast Program has a positive impact on the lives and classroom performance of low-income children.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. Madam President, I rise today in support of a Senate resolution that expresses the Senate's esteem for and commitment to the National School Breakfast Program. I am pleased to be joining Senator FEINGOLD in both recognizing the good that this program accomplishes for low-income children and encouraging more States to participate.

The United States is experiencing a hunger crisis. In 2006 alone, the U.S. Department of Agriculture, USDA, reported that 35.5 million Americans did not have the money or resources needed to provide food for themselves or their families, and this number is sadly on the rise. Between 2005 and 2006, the number of hungry people in the United States increased by over 400,000. As we continue through hard economic times, we can only assume the number of hungry people in America will continue to increase.

Hunger is not just a problem that plagues adults. Of the 35.5 million people who go hungry each year in America, 12.6 million of them are children. This means that 17.2 percent of all children are unsure where their next meal will come from—which poses a real problem. Hunger hinders growth and development and negatively affects

health, leading to increased illness, fatigue, and even hospitalizations. Studies have also shown that hunger impairs cognitive function; hungry children are more likely to perform poorly on tests and repeat grades.

Recognizing the relationship between good nutrition and the ability to learn and be healthy, Congress established a pilot National School Breakfast Program in 1966. Because of its success in raising the nutrition level of needy children, Congress permanently authorized the program in 1975. Since its inception, the School Breakfast Program has experienced tremendous growth. According to the USDA, the number of participating students has increased from 0.5 million children in 1970 to 9.7 million in 2006. This means that each day, more and more children receive a breakfast that provides them with one-fourth of the recommended dietary allowance for protein, calcium, iron, Vitamin A, Vitamin C, and calories. And because of improvements in implementation, including initiatives that provide breakfasts both in classrooms, in hallways, and as students exit buses, the number of students participating in the programs has doubled and in some cases tripled. Yet the number of students participating in the Breakfast Program is still much less than half of the number participating in the National Lunch Program. It is vitally important that we keep up the National Breakfast Program's momentum and provide the States with the tools they need to encourage as many needy children to take part as can.

Appreciating the importance of the program, Pennsylvania has helped increase the number of schools that take advantage of this important program. Each year, Pennsylvania invests nearly $35.5 million in school breakfast and lunch, paying school districts 10 cents for each breakfast served and 10 cents for each lunch served. To increase the number of students receiving both breakfast and lunch, Pennsylvania pays an additional 2 cents per lunch if breakfast is offered in the school and an additional 4 cents per lunch if the school serves breakfast to at least 20 percent of enrolled students. As with national participation, Pennsylvania's participation is on the rise; over 100 more schools participated in the program between 2005 and 2006 than the previous year. Through this resolution, we hope to encourage States, like Pennsylvania, to continue to work toward our common goal of reducing child hunger.

This Senate resolution recognizes the positive impact the National School Breakfast Program has on needy children. The program not only gives students a balanced breakfast, it provides a solid foundation on which they can start their day. Eating breakfast alone increases student attentiveness and improves overall performance and wellness. The National School Breakfast Program is making great inroads into child hunger. This resolution recognizes the efforts of the States in implementing the program and encourages them to expand their efforts.

Mr. PRYOR. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 474) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 474

Whereas participants in the National School Breakfast Program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) include public, private, elementary, middle, and high schools, as well as schools in rural, suburban, and urban areas;

Whereas access to nutrition programs such as the National School Lunch Program and the National School Breakfast Program helps to create a stronger learning environment for children and improves children's concentration in the classroom;

Whereas missing breakfast and the resulting hunger has been shown to harm the ability of children to learn and hinders academic performance;

Whereas students who eat a complete breakfast have been shown to make fewer mistakes and to work faster in math exercises than those who eat a partial breakfast;

Whereas implementing or improving classroom breakfast programs has been shown to increase breakfast consumption among eligible students dramatically, doubling and in some cases tripling numbers of participants in school breakfast programs, as evidenced by research in Minnesota, New York, and Wisconsin;

Whereas providing breakfast in the classroom has been shown in several instances to improve attentiveness and academic performance, while reducing absences, tardiness, and disciplinary referrals;

Whereas studies suggest that eating breakfast closer to the time students arrive in the classroom and take tests improves the students' performance on standardized tests;

Whereas studies show that students who skip breakfast are more likely to have difficulty distinguishing among similar images, show increased errors, and have slower memory recall;

Whereas children who live in families that experience hunger are likely to have lower math scores, receive more special education services, and face an increased likelihood of repeating a grade;

Whereas making breakfast widely available in different venues or in a combination of venues, such as by providing breakfast in the classroom, in the hallways outside classrooms, or to students as they exit their school buses, has been shown to lessen the stigma of receiving free or reduced-price school breakfasts, which sometimes prevents eligible students from obtaining traditional breakfast in the cafeteria;

Whereas, in fiscal year 2006, 7,700,000 students in the United States consumed free or reduced-price school breakfasts provided under the National School Breakfast Program;

Whereas less than half of the low-income students who participate in the National School Lunch Program also participate in the National School Breakfast Program;

Whereas almost 17,000 schools that participate in the National School Lunch Program do not participate in the National School Breakfast Program;

Whereas studies suggest that children who eat breakfast take in more nutrients, such as calcium, fiber, protein, and vitamins A, E, D, and B-6;

Whereas studies show that children who participate in school breakfast programs eat more fruits, drink more milk, and consume less saturated fat than those who do not eat breakfast; and

Whereas children who do not eat breakfast, either in school or at home, are more likely to be overweight than children who eat a healthy breakfast on a daily basis: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the importance of the National School Breakfast Program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and the positive impact of the Program on the lives of low-income children and families and on children's overall classroom performance;

(2) expresses strong support for States that have successfully implemented school breakfast programs in order to alleviate hunger and improve the test scores and grades of participating students;

(3) encourages all States to strengthen their school breakfast programs, provide incentives for the expansion of school breakfast programs, and promote improvements in the nutritional quality of breakfasts served; and

(4) recognizes the need to provide States with resources to improve the availability of adequate and nutritious breakfasts.

MEASURES READ THE FIRST TIME—S. 2709, S. 2710, S. 2711, S. 2712, S. 2713, S. 2714, S. 2715, S. 2716, S. 2717, S. 2718, S. 2719, S. 2720, S. 2721, and S. 2722

Mr. PRYOR. Madam President, I understand there are 14 bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title en bloc.

The legislative clerk read as follows:

A bill (S. 2709) to increase the criminal penalties for illegally reentering the United States and for other purposes.

A bill (S. 2710) to authorize the Department of Homeland Security to use an employer's failure to timely resolve discrepancies with the Social Security Administration after receiving a ''no match'' notice as evidence that the employer violated section 274A of the Immigration and Nationality Act.

A bill (S. 2711) to improve the enforcement of laws prohibiting the employment of unauthorized aliens and for other purposes.

A bill (S. 2712) to require the Secretary of Homeland Security to complete at least 700 miles of reinforced fencing along the Southwest border by December 31, 2010, and for other purposes.

A bill (S. 2713) to prohibit appropriated funds from being used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

A bill (S. 2714) to close the loophole that allowed the 9/11 hijackers to obtain credit cards from United States banks that financed their terrorists activities, to ensure that illegal immigrants cannot obtain credit cards to evade United States immigration laws, and for other purposes.

A bill (S. 2715) to amend title 4, United States Code, to declare English as the national language of the Government of the United States, and for other purposes.

A bill (S. 2716) to authorize the National Guard to provide support for the border control activities of the United States Customs and Border Protection of the Department of Homeland Security, and for other purposes.

A bill (S. 2717) to provide for enhanced Federal enforcement of, and State and local assistance in the enforcement of, the immigration laws of the United States, and for other purposes.

A bill (S. 2718) to withhold 10 percent of the Federal funding apportioned for highway construction and maintenance from States that issue driver's licenses to individuals without verifying the legal status of such individuals.

A bill (S. 2719) to provide that Executive Order 13166 shall have no force or effect, and to prohibit the use of funds for certain purposes.

A bill (S. 2720) to withhold Federal financial assistance from each country that denies or unreasonably delays the acceptance of nationals of such country who have been ordered removed from the United States and to prohibit the issuance of visas to nationals of such country.

A bill (S. 2721) to amend the Immigration and Nationality Act to prescribe the binding oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States, to encourage and support the efforts of prospective citizens of the United States to become citizens, and for other purposes.

A bill (S. 2722) to prohibit aliens who are repeat drunk drivers from obtaining legal status or immigration benefits.

Mr. PRYOR. Madam President, I now ask for a second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, all en bloc.

The PRESIDING OFFICER. Objection is heard.

Mr. PRYOR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 2663

Mr. PRYOR. Madam President, I ask unanimous consent that when the Senate resumes consideration of S. 2663, the Consumer Product Safety Commission legislation, the Senate then resume consideration of the Vitter amendment No. 4097, with 15 minutes of debate prior to a vote in relation to the amendment, with the time equally divided and controlled between Senators PRYOR and VITTER or their designees; that upon the use or yielding back of time, the Senate proceed to a vote in relation to the amendment with no amendments in order to the amendment prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, MARCH 6, 2008

Mr. PRYOR. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Thursday, March 6; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that the Senate proceed to a period of morning business for up to 1 hour with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate resume consideration of S. 2663, a bill to reform the Consumer Product Safety Commission, and that the mandatory quorum required under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. PRYOR. Madam President, this evening we were able to reach an agreement to have a vote in relation to the Vitter amendment regarding attorney's fees. Senators should be prepared to vote as early as 10:50 a.m. tomorrow.

Today the leader filed cloture on the bill. However, it is our intention to complete action on the bill tomorrow evening. Therefore, rollcall votes are expected to occur throughout the day in relation to the remaining amendments to the bill.

ORDER FOR ADJOURNMENT

Mr. PRYOR. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order following the remarks of Senator THUNE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

BENEFITS OF RENEWABLE FUEL

Mr. THUNE. Mr. President, this last year, Americans sent almost half a trillion dollars, almost $500 billion, overseas to purchase imported oil from other countries around the world. Think about that massive transfer of wealth and what that means for our national security because, in many respects, a lot of those dollars being used to purchase imported fuels are going to countries that are not favorable toward the United States. Of course, some say it is a world market, let the market work.

The difference is that most of our trading partners around the world are people we consider to be at least friends, allies, folks we do business with. They are not countries that are funding organizations that are trying to kill Americans. Regrettably, what we end up doing is funding both sides of the war on terror, because we send almost half a trillion dollars annually to foreign countries, petro dictators around the world who use those dollars to fund terrorist organizations that are designed to kill Americans, and then we end up having, of course, to fund our military to go fight the very same terrorists. It seems like a very misguided policy.

I make that point because I think we have a dangerous dependence on foreign energy. Today, 65 percent of our petroleum comes from outside of the United States. As most of us know, the fuels in this country are mostly petroleum based. The reason I say all that is I think we have an important decision to make in this country about whether we are going to continue to subsidize foreign governments, petro dictators who use those dollars that transfer wealth out of this country to fund terrorist organizations that attack Americans, or whether we are going to make an investment in the United States that provides benefits to the economy in America and provides jobs for Americans. I think that is an important decision we have to make.

For the past several years, this Congress as a matter of policy has tried to put into place incentives to increase the production of renewable energy, and with some degree of success. If you look at last year and this year, by the end of this year, we will be at about 7.5 billion gallons of ethanol produced in the United States. There are some 160, I think, ethanol biorefineries in this country. If you look at it, 22 States are home to some of those, with a collective capacity of over 7.5 billion gallons. There are sixty biorefineries under construction and several plants are in the process of expansion. That is a great story for America and for our agricultural economy. It is also a great story for our national security, in my view.

Lately, we have had a lot of attacks launched on the ethanol industry, and on renewable fuels generally. Many of them have been, again in my view, very misguided and misleading in terms of the reporting that has been done regarding food prices. If you look at several editorials recently, the New York Times went out of their way to discount the impact of high energy prices and worldwide demand for protein as reasons for food price increases. Rather, they decided to blame ethanol by

stating, ''The most important reason for the price shock is the rich world's subsidized appetite for biofuels.'' The editorial board claims, ''The benefits of this strategy are dubious.''

A February Washington Post article, entitled ''The Problem With Biofuels,'' leads the public to believe that biofuels will only serve to starve people. The article quotes a university study and states, ''By putting pressure on global supplies of edible groups, the surge in ethanol production will translate into higher prices for both processed and staple foods around the world.''

The food versus fuel debate is an important debate to have. However, it has to be based upon facts and not anti-renewable fuel rhetoric.

It is a fact that energy prices have a 2-to-1 greater impact on food prices relative to the price of inputs such as corn.

Last year, John Uranchuck of LECG issued a report detailing the impact of rising energy prices on the price of food. According to that study,

> Increasing petroleum prices have about twice the impact on consumer food prices as equivalent increases in corn prices. A 33 percent increase in crude oil prices—the equivalent of $1 per gallon over current levels of retail gasoline prices—would increase retail food prices measured by the CPI for food by 0.6 to 0.9 percent. An equivalent increase in corn prices—about $1 per bushel over current levels—would increase consumer food prices only 0.3 percent.

In December 2007, Informa Economics issued a report called ''Marketing Costs and Surging Global Demand for Commodities Are Key Drivers of Food Price Inflation.'' This report also concluded that the price of raw commodities is not the leading component of the Consumer Price Index for food. Rather, this report correctly identified rising energy and transportation costs as leading causes of food inflation.

To place the blame for food inflation on biofuels and the rising prices of certain commodities is simply misguided. According to the U.S. Department of Agriculture, costs of food inputs only account for a fraction of food prices. Specifically, labor, packaging, transportation, advertising, and profits account for 68 cents of every dollar a consumer spends on food.

The long-term outlook for corn prices under the expanded renewable fuels standard is somewhere in the $3.25 to $3.50 per bushel range. To put that into perspective, so the average person around the country can understand what I am talking about, the average box of corn flakes contains about 10 ounces or one ninetieth of a bushel of corn. Even at $4 corn—$4 a bushel corn—that amounts to 5 cents of corn in a box of corn flakes. Think about that. A box of corn flakes. Everybody assumes the farmer, because of high corn prices, is cutting a fat hog, but 5 cents of that goes back into the farmer's pocket. Attributing food inflation to biofuels and corn-based ethanol is simply untrue.

Now, with respect to climate change, because we have heard a lot of discussion as well and criticism of the ethanol industry with regard to how it impacts that debate, critics of renewable fuels have also started blaming climate change on renewable energy. I find that hard to believe, as well, because the purpose of biofuels is to replace petroleum as a fuel source. For years, environmentalists have decried petroleum as a major emitter of harmful carbon emissions. Today, we have a homegrown alternative that is displacing more and more petroleum by the day. Some are claiming now that ethanol is creating more global warming. If our national policy is to manage climate change, falsely blaming ethanol for global warming is not helpful to the cause.

According to the Argonne National Laboratory, regular blends of ethanol, gasoline containing 10 percent ethanol, reduce greenhouse gas emissions by 18 to 29 percent relative to regular gasoline.

As more ethanol is produced and consumed, our Nation's carbon footprint will continue to shrink. In 2006, ethanol use in the United States reduced carbon dioxide emissions by approximately 8 million tons. Such a reduction is the equivalent of removing 1.21 million cars from the road.

As Congress continues to debate climate change legislation and the causes of global warming, it is important to set the record straight. Ethanol production is a carbon sink, not a net producer of carbon emissions. Furthermore, as new types of cellulosic ethanol come online, the carbon-reducing benefits of ethanol are only going to increase.

Ethanol may be able to be blamed for some other transformations in our economy. For one, increased ethanol production is allowing our demand for gasoline to go down and displacing foreign imports of oil. Again, I point to some of the statistics that bear that out. If you look at the amount of ethanol that is being produced in America today—and this is based on a 2007 number—in 2007, the ethanol that was produced, 6.5 billion, in this country displaced the need for 228 million barrels of oil, saving American consumers more than $16 billion or $45 million a day from going to countries, as I said earlier, outside the United States and enriching petrodictators who would do us ill will.

If we look at the impact on tax revenues coming into the Treasury, the ethanol industry generated an estimated $4.6 billion in Federal tax revenue and $3.6 billion in additional tax revenue for State and local governments. So if you couple that with the fact that according to the USDA—and I think this is an important point to make, too, by those who would criticize ethanol—according to the USDA, the increased demand for grain use in ethanol production reduced Federal farm program costs by more than $8 billion last year, meaning that even with the cost of the tax incentive that we use to encourage more production of ethanol, ethanol saved U.S. taxpayers, when you couple that with the additional tax revenue coming into the Treasury and the $8 billion that was saved because the Federal Government was not making farm program payments to farmers in this country, U.S. taxpayers saved more than $9.2 billion as a result of this industry.

Right now, about 50 percent of the gasoline in this country is blended with ethanol, and before very long, we hope that from coast to coast we will have every single gallon of gasoline in this country blended with ethanol.

But my point very simply is: This has been a great success story, one which has benefited and enriched our country, our farmers, people in this country who are working hard making a living contributing to a better quality of life for all Americans, as opposed to shipping all that wealth outside the United States to other countries.

Let me restate what I started by saying at the very beginning, and that is that last year, we spent almost half a trillion dollars, almost $500 billion, in purchasing imported oil. That, again, makes absolutely no sense to me in light of these statistics that I shared. I think as we look at the future of this industry and the promise it holds and the benefit it holds, not only for the economy in this country but also as we get away from this dangerous dependence on foreign sources of energy, renewable fuels, biofuels, have a great future for America, and I believe we ought to be continuing to invest in making sure that those who are involved with that industry—our farmers, those who are constructing ethanol plants around this country, that we provide not fewer incentives but more incentives for this kind of biofuel production that, again, gets rid of the carbon in our atmosphere, cleans up our environment, lessens our dependence on foreign sources of energy, and puts dollars back into the pockets of hardworking Americans, farmers, the rural economy, creating jobs, helping grow the economy right here at home in the United States rather than shipping those dollars to some foreign country where, again, many of these dollars are used to turn around and fund organizations that are designed to undermine America's interests around the world.

This debate will continue to percolate around this country, but when we get into this debate about food versus fuel, it is important we have the facts in front of us because this industry has undergone a lot of criticism of late. As I said before, I think much of it is misguided because it is based on misinformation and wrong facts. We need to have the facts in front of us, and then we can have a meaningful debate. Until that happens, we are going to hear more of these false attacks against an industry that is creating American jobs, helping reduce our dependence on foreign energy, and I hope, in the very near future, we will be able

to increase the amount not only of production in this country but the amount of consumption because I believe in the very near future we will start seeing more and more momentum for increasing the blend rate.

Right now, we blend 10 percent ethanol, as I said, in 50 percent of the gasoline in the country. I hope in the future we can increase that to 20 percent. The University of Minnesota completed a study where they compared effects of 10 percent and 20 percent on materials compatibility, driveability—all those types of issues. The result of the data that came from that study was that you can move to a 20-percent blend, a higher blend, an intermediate blend right now and have no impact on any of those issues.

The issue of emissions is still being studied. The renewable energy laboratory in Golden, CO, and the Department of Energy and EPA are undertaking some studies. When that data comes in, I believe it will show what the University of Minnesota study has shown and that is you can go to a higher blend with minimal impact and, in fact, in many cases with a better result; that we should move very quickly. I am going to encourage the administration and continue to try to influence that decisionmaking process in a way that will increase the amount of ethanol that is used in this country so, again, we can achieve the many benefits that I think dependence on American agriculture creates for us as opposed to our dependence upon foreign energy.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:16 p.m., adjourned until Thursday, March 6, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF COMMERCE

NEIL SURYAKANT PATEL, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION, VICE JOHN M. R. KNEUER.

DEPARTMENT OF STATE

JAMES B. CUNNINGHAM, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

DONALD GENE TEITELBAUM, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

FRANK CHARLES URBANCIC, JR., OF INDIANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CYPRUS.

UNITED STATES INSTITUTE OF PEACE

NANCY M. ZIRKIN, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2011, VICE MARIA OTERO, TERM EXPIRED.

J. ROBINSON WEST, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2011. (REAPPOINTMENT)

KERRY KENNEDY, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2011, VICE LAURIE SUSAN FULTON, TERM EXPIRED.

IKRAM U. KHAN, OF NEVADA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2009, VICE HOLLY J. BURKHALTER, TERM EXPIRED.

STEPHEN D. KRASNER, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2011, VICE CHARLES EDWARD HORNER, TERM EXPIRED.

DEPARTMENT OF LABOR

ALEXANDER PASSANTINO, OF VIRGINIA, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR, VICE PAUL DECAMP.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ANDREW TOWNSEND WIENER, OF TEXAS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

LORA ANN BAKER, OF CALIFORNIA
CYNTHIA ANN BIGGS, OF SOUTH CAROLINA
DARREL WAH CHEW CHING, OF HAWAII
JAMES GOLSEN, OF MARYLAND
VAL EUGENE HUSTON, OF INDIANA
DENNIS A. SIMMONS, OF FLORIDA
DOUGLAS WALLACE, OF MARYLAND
DALE R. WRIGHT, OF VIRGINIA
ERIC B. WOLFF, OF NORTH CAROLINA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

GEOFFREY BOGART, OF CALIFORNIA
JENNIFER KANE, OF THE DISTRICT OF COLUMBIA
CHARLES RAOUL RANADO, OF VIRGINIA
CATHERINE P. SPILLMAN, OF PENNSYLVANIA

DEPARTMENT OF STATE

ANDREA L. DOYLE, OF WASHINGTON
MARISSA DENISE SCOTT, OF LOUISIANA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

MANOJ S. DESAI, OF MASSACHUSETTS
ERIK R. RIKANSRUD, OF VIRGINIA
CONRAD WAI-PAC WONG, OF VIRGINIA

DEPARTMENT OF STATE

PATRICIA M. AGUILO, OF NEW HAMPSHIRE
ANDREA K. ALBERT, OF VIRGINIA
CHRISTINA PAULA ALMEIDA, OF RHODE ISLAND
MARIA CECILIA ALVARADO, OF NEW MEXICO
J. DEAN ARKEMA, OF VIRGINIA
KEVIN BAE, OF THE DISTRICT OF COLUMBIA
ZANE LEE BARNES, OF CALIFORNIA
BRIAN P. BAUER, OF ILLINOIS
ROBBIE LANEICE BROOKER, OF TEXAS
PETER HEARTH BROWN, OF NEW YORK
JEFFREY ALLEN BUTLER, OF VIRGINIA
JOSHUA M. BUXTON, OF CALIFORNIA
BRYAN J. CLAYTON, OF VIRGINIA
ANGELA COOPER, OF VIRGINIA
THOMAS M COYLE, OF MICHIGAN
PIERCE MICHAEL DAVIS, OF THE DISTRICT OF COLUMBIA
CHANEL NICOLE DENNIS, OF DELAWARE
AUSTIN GALE DEVER, OF VIRGINIA
EILEEN F. DI DOMENICO, OF VIRGINIA
KYLA DOTSON, OF VIRGINIA
HANNAH ASHLEY DRAPER, OF ARKANSAS
JONATHAN S. DRUCKER, OF VIRGINIA
JAMES P. DUVERNAY, OF NEW JERSEY
ALICE H. EASTER, OF NEW YORK
CANDACE LYNN FABER, OF WASHINGTON
JOANNA HOPE GANSON, OF NEW YORK
BRIAN HARRY GETTER, OF VIRGINIA
CATHERINE G. GILLEN, OF VIRGINIA
ASHLEY R. GRAY, OF KENTUCKY
ALEXANDERIA B. HAIDARA, OF COLORADO
ARTHUR J. HALL, JR., OF VIRGINIA
KENT B. HALLBERG, OF VIRGINIA
MARK C. HALLISEY, OF CONNECTICUT
REID T. HAMILTON, OF VIRGINIA
JENNIFER G. HANDOG, OF NEVADA
ANNA M. HARGIS, OF VIRGINIA
RUBEN HARUTUNIAN, OF MARYLAND
RACHEL Y. HAWKINS, OF TENNESSEE
EMILY JEANETTE HICKS, OF TEXAS
ROBERT M. HINES, OF VIRGINIA
RICHARD HOGE, OF VIRGINIA
DONALD J. HOWARD, OF VIRGINIA
ELIZABETH HOWARD, OF FLORIDA
MELISSA D. HUDSON, OF TENNESSEE
AJANI HUSBANDS, OF TEXAS
SIMONE W. JOHNSON, OF MISSOURI
ANTHONY M JONES, OF VIRGINIA
NICKOLAS A. JORJANI, OF VIRGINIA
CAMERON F. KAHI, OF VIRGINIA
HEERA KAUR KAMBOJ, OF NEW YORK
ALLA PAVEL KAMINS, OF VIRGINIA
MARIAH KENDALL WOHLFEIL, OF VIRGINIA
JAMES P. KLAPPS, OF VIRGINIA
STEVEN GEORGE LACEY, OF VIRGINIA
SHEA N. LEAHY, OF VIRGINIA
RACHEL M. LEHR, OF VIRGINIA
JAMES T. LEONG, OF VIRGINIA
ROBERT A. LESTER, OF VIRGINIA
DAVID ANTOINE LEWIS, OF THE DISTRICT OF COLUMBIA
JOSEPH S. LIVINGSTON, OF NEW YORK
PHILLIP LAMAR LOOSLI, OF CALIFORNIA
ADAM JOHN LORBER, OF VIRGINIA
THOMAS JOSEPH LYONS, OF THE DISTRICT OF COLUMBIA
ERIN L. MACIEL, OF VIRGINIA
KATHERINE K. MARQUIS, OF VIRGINIA
VICTOR LERUN MARSH II, OF MICHIGAN
NICOLE LUCINDA MEWHINNEY MARTIN, OF VIRGINIA
DEVIN V. MILLER, OF VIRGINIA
BETH MINIX, OF VIRGINIA
JONATHAN ANDRE MITCHELL, OF PENNSYLVANIA
JOSHUA SHUN MO, OF VIRGINIA
CHARLES D. MYERS, OF VIRGINIA
ELIZABETH FAWN NEDEFF, OF WASHINGTON
JONATHAN JAMES NELLIS, OF MARYLAND
JOSHUA W. NELSON, OF VIRGINIA
THU HUYNH NGUYEN, OF WASHINGTON
JEFFREY MICHAEL OSWEILER, OF IOWA
JOHN PARK, OF VIRGINIA
JOHN L. PORTER, OF THE DISTRICT OF COLUMBIA
SEAN C. POWERS, OF VIRGINIA
ADAM P. PRICE, OF THE DISTRICT OF COLUMBIA
PABLO BENJAMIN QUINTANILLA, OF MISSOURI
DOMINIC PETER RANDAZZO, OF PENNSYLVANIA
CATHERINE C. REGEN, OF VIRGINIA
BRIAN EDWARD RENTSCH, OF VIRGINIA
KIMBERLY ANN RENTSCH, OF TEXAS
CHRISTINA E. REPP, OF THE DISTRICT OF COLUMBIA
JAMES ROLLENS IV, OF LOUISIANA
EDWIN O. RUEDA, OF NORTH CAROLINA
ANGELA SAGER, OF TEXAS
ERIC FULTON SANDERS, OF VIRGINIA
DAVID RYAN SEQUEIRA, OF VIRGINIA
HEIDY SERVIN-BAEZ, OF OREGON
CHRISTOPHER SILKIE, OF CALIFORNIA
SARAH ANNEMARIE SIMONS, OF CALIFORNIA
KRISTEN ANNA SIUDZINSKI, OF VIRGINIA
MICHAEL G. SLONAKER, OF MARYLAND
GUY G. SMITH, OF VIRGINIA
GARY E. STANULIS, OF VIRGINIA
TRISHA ANN TAINO, OF VIRGINIA
TOD M. THEDY, OF FLORIDA
STACY L. TOLLISON, OF TEXAS
CYNDEE-NGA TRINH, OF TEXAS
STACEY H. TSAI, OF TEXAS
DALEYA S. UDDIN, OF NEW JERSEY
THOMAS M. VENNER, OF ILLINOIS
NICOLE M. VERSTRAETE-DISHNER, OF VIRGINIA
ANNY HONG AN TRINH VU, OF CALIFORNIA
MELISSA DANIELLE WALSH, OF OKLAHOMA
MUJAHID A.M.M. WASHINGTON, OF NEW YORK
KELLY A. WATKINS, OF NEW HAMPSHIRE
ANDREW DAMRON MCBRIDE WATSON, OF VIRGINIA
NATALIE M. WAUGH, OF CALIFORNIA
AMY WEINHOUSE, OF THE DISTRICT OF COLUMBIA
LAURA M WILLIFORD, OF GEORGIA
MARK DAVID WISEMAN, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

DAVID T. NEWELL, OF FLORIDA
JOHN V.G. SPILSBURY, OF NEW YORK

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

TROY A. LINDQUIST, OF UTAH

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be lieutenant (junior grade)

BENNIE N. JOHNSON

To be ensign

MARK S. ANDREWS
MEGAN R. GUBERSKI
NATHAN E. WITHERLY
CHRISTINE L. SCHULTZ
CLAIRE V. SURREY
RONALD L MOYERS, JR
BRIAN D. PLAYER
GLEN A. RICE
PATRICK M. REDMOND

MEGAN H. O'BRIEN
RUSSELL A. QUINTERO
NATHAN B. PARKER
JONATHAN R. HEESCH
MATTHEW C. GRIFFIN
FAITH C. OPATRNY

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE COMMISSIONED CORPS OF THE U.S. PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW AND REGULATIONS:

To be medical director

MARGARET C. BASH
DIANE E. BENNETT
M MILES BRAUN
LOUISA E. CHAPMAN
DONALD W. CLARK
GEORGE A. CONWAY
THERESA DIAZ VARGAS
STEVEN H. FOX
WALTER G. HLADY
HAMID S. JAFARI
SUSAN A. MALONEY
DIANE A. MITCHELL
ANTHONY W. MOUNTS
CAROL A. PERTOWSKI
EDWARD L. PETSONK
LISA G. RIDER
STEVEN R. ROSENTHAL
PATRICIA M. SIMONE
GAIL M. STENNIES
PAMELA STRATTON
JOHN C. WATSON

To be senior surgeon

TECORA D. BALLOM
D. W. CHEN
PATRICK H. DAVID
MICHAEL C. ENGEL
PAUL T. HARVEY
RICHARD P. HEDLUND
MICHAEL T. MARTIN
JOHN R. MASCOLA
WILLIAM H. ORMAN
BERNARD W. PARKER
KAREN L. PARKO
KEVIN A. PROHASKA
WILLIAM RESTO-RIVERA
THERESA L. SMITH
STEPHEN H. WATERMAN

To be surgeon

DANIEL S. BUDNITZ
SOJU CHANG
EILEEN F. DUNNE
DIANA L. DUNNIGAN
DAVID R. GAHN
JOHN M. HARDIN
SCOTT A. HARPER
RICHARD P. HEDLUND
MITCHELL V. MATHIS, JR.
MATTHEW R. MOORE
MARIE A. RUSSELL
DOROTHY J. SANDERSON
JOHN W. VANDERHOOF
HUI-HSING WONG

To be senior assistant surgeon

SONGHAI C. BARCLIFT
RICHARD P. HEDLUND
MITCHELL V. MATHIS, JR.
MATTHEW J. OLNES
GREGGORY J. WOITTE

To be dental director

JOEL J. AIMONE
MITCHEL J. BERNSTEIN
DAVID A. CRAIN
CLAY D. CROSSETT
CHRISTOPHER G. HALLIDAY
KATHY L. HAYES
STUART R. HOLMES
LINDA A. JACKSON
JOHN W. KING
MICHAEL E. KORALE
TAD R. MABRY
RONALD J. NAGEL
MARY S. RUNNER
SAUNDERS P. STEIMAN
JAMES N. SUTHERLAND
STEPHEN P. TORNA

To be senior dental surgeon

TIMOTHY L. AMBROSE
ANITA L. BRIGHT
BRENDA S. BURGES
CIELO C. DOHERTY
ROBERT G. GOOD
RENEE JOSKOW
GELYNN L. MAJURE
KIPPY G. MARTIN
HSIAO P. PENG
ROSS W. SILVER
JOHN R. SMITH
MICHAEL P. WINKLER
PAUL S. WOOD
BENJAMIN C. WOOTEN

To be dental surgeon

STEPHANIE M. BURRELL
TANYA T. HOLLINSHED-MILES
MARY B. JOHNSON
CRAIG S. KLUGER
ROBERT C. LLOYD, JR.
TANYA M. ROBINSON
BRIDGET R. SWANBERG-AUSTIN
VANESSA F. THOMAS
JAMES H. WEBB, JR.
EARLENA R. WILSON

To be nurse director

MARY C. AOYAMA
REGENA DALE
FERN S. DETSOI
MAUREEN Q. FARLEY
CLARICE GEE
ANN R. KNEBEL
SHERYL L. MEYERS
ERNESTINE MURRAY
JAMES M. POBRISLO
ANA M. PUENTE
GWETHLYN J. SABATINOS
TONI JOY SPADARO
DIANE R. WALSH
JANET L. WILDEBOOR

To be senior nurse officer

YVONNE L. ANTHONY
DOLORES J. ATKINSON
KATHERINE M. BERKHOUSEN
ROSA J. CLARK
BUCKY M. FROST
ALEX GARZA
BRADLEY J. HUSBERG
LYNN M. LOWRY
IVY L. MANNING
DANIEL REYNA
MICHAEL L. ROBINSON
LINDA M. TRUJILLO
VIEN H. VANDERHOOF
THERESA B. WADE
AMANDA S. WAUGAMAN
KONSTANTINE K. WELD
CHRISTINE L. WILLIAMS
ADOLFO ZORRILLA

To be nurse officer

AMY F. ANDERSON
FELICIA A. ANDREWS
DEBRA D. AYNES
LISA A. BARNHART
ELIZABETH A. BOOT
ALICIA A. BRADFORD
THEODORA R. BRADLEY
CLAUDIA M. BROWN
MAUREEN J. CIPPEL
WILLIAM F. COYNER
SUSIE P. DILL
JENNY DOAN
JOHN S. GARY, JR.
DEANNA M. GEPHART
AKILAH K. GREEN
CHRIS L. HENNEFORD
ERIK S. HIERHOLZER
EUNICE F. JONES-WILLS
CHARLES M. KERNS
YVONNE T. LACOUR
STEPHEN D. LANE
CHRISTINE M. MATTSON
THEL MOORE, JR.
ALOIS P. PROVOST
TONIA L. SAWYER
SEAN-DAVID A. WATERMAN
KELLIE L. WESTERBUHR
ZENJA D. WOODLEY

To be senior assistant nurse officer

DAVID A. CAMPBELL
DARRELL LYONS
CHRISTINE M. MERENDA
GLORIA M. RODRIGUES
GERI L. TAGLIAFERRI

To be engineer director

DANA J. BAER
ROBERT E. BIDDLE
DAVID M. BIRNEY
CRAIG W. LARSON
PETER C. PIRILLO, JR.
GEORGE D. PRINGLE, JR.
PAULA A. SIMENAUER

To be senior engineer officer

DONALD C. ANTROBUS
LEO M. BLADE
RANDALL J. GARDNER
BRADLEY K. HARRIS
EDWARD M. LOHR
ROBERT J. LORENZ
DALE M. MOSSEFIN
SUSAN K. NEURATH
PAUL G. ROBINSON
ARTHUR D. RONIMUS I, II
JACK S. SORUM
KENNETH T. SUN
HUNG TRINH
DANIEL H. WILLIAMS

To be engineer officer

MARK T. BADER
SEAN M. BOYD
TRACY D. GILCHRIST
RAMSEY D. HAWASLY
STEPHEN B. MARTIN, JR.
MARCUS C. MARTINEZ
MARK A. NASI
DELREY K. PEARSON
NICHOLAS R. VIZZONE

To be scientist director

S. LORI BROWN
LEMYRA M. DEBRUYN
DARCY E. HANES
DELORIS L. HUNTER
MAHENDRA H. KOTHARY
FRANCOIS M. LALONDE
ONEAL A. WALKER

To be senior scientist

JON R. DAUGHERTY
JOHN M. HAYES
WILLIAM J. MURPHY
RICHARD P. TROIANO

To be scientist

DIANA M. BENSYL
MARK J. SEATON

To be environmental health officer director

STEVEN M. BREITHAUPT
RICHIE K. GRINNELL
KATHY L. MORRING
JOHN P. SARISKY

To be senior environmental health officer

DEBRA M. FLAGG
JEAN A. GAUNCE
KEVIN W. HANLEY
TIMOTHY M. RADTKE
KELLY M. TAYLOR

To be environmental health officer

DAVID B. CRAMER
THOMAS M. FAZZINI
BRIAN K. JOHNSON
TINA J. LANKFORD
JOHN W. SPRIGGS
BOBBY T. VILLINES

To be veterinary director

PETER B. BLOLAND
WALTER R. DALEY
JUDITH A. DAVIS
SHELLEY HOOGSTRATEN-MILLER
MARISSA A. MILLER

To be senior veterinary officer

KRISTINE M. BISGARD
BRENT C. MORSE
KIM D. TAYLOR

To be veterinary officer

PRINCESS R. CAMPBELL
MARIANNE PHELAN ROSS

To be pharmacist director

RODNEY M. BAUER
LAURIE B. BURKE
DIANE CENTENO-DESHIELDS
PAUL A. DAVID
JOSEPHINE E. DIVEL
GEORGE A. LYGHT
MICHAEL J. MONTELLO
CECILIA-MARINA PRELA
BRYAN L. SCHULZ
RAELENE W. SKERDA
MATTHEW A. SPATARO

To be senior pharmacist

EDWARD D. BASHAW
JEFFREY T. BINGHAM
BEECHER R. COPE, JR.
WESLEY G. COX
SUSAN J. FREDERICKS
MUHAMMAD A. MARWAN
JILL D. MAYES
JOHN F. SNOW
ROBERT C. STEYERT
JULIENNE M. VAILLANCOURT
TODD A. WARREN
KIMBERLY A. ZIETLOW

To be pharmacist

CHRISTOPHER K. ALLEN
MITZIE A. ALLEN
MICHAEL J. CONTOS
DAVID T. DIWA
LOUIS E. FELDMAN
RICHARD K. GLABACH
ANDREW S. HAFFER
GLENNA L. MEADE
ANDREW K. MEAGHER
SURYAMOHAN V. PALANKI
LAURA L. PINCOCK
MARTIN H. SHIMER II
MARK N. STRONG
BRANDON L. TAYLOR
TERESA A. WATKINS
SAMUEL Y. WU
CHARLA M. YOUNG

To be dietitian director

TAMMY L. BROWN
KAREN A. HERBELIN

To be senior dietitian

SILVIA BENINCASO

JEAN R. MAKIE
VANGIE R. TATE

To be therapist director

TERRY T. CAVANAUGH
GEORGIA A. JOHNSON
SUSAN F. MILLER
REBECCA A. PARKS

To be senior therapist

NANCY J. BALASH
MERCEDES BENITEZ-MCCRARY
GARY W. SHELTON

To be therapist

CYNTHIA E. CARTER
GRANT N. MEAD
SUE N. NEWMAN
TARRI ANN RANDALL

To be health services director

MARIE E. BURNS
PETER J. DELANY
JULIA A. DUNAWAY
ANNIE BRAYBOY FAIR
STEVEN M. GLOVER

To be senior health services officer

GAIL A. DAVIS
RAFAEL A. DUENAS
GREGORY D. MCLAIN
NANCY A. NICHOLS
JUDY B. PYANT
LARRY E. RICHARDSON
RAFAEL A. SALAS
WILLIAM TOOL
GINA B. WOODLIEF
ELISE S. YOUNG

To be health services officer

JEFFREY S. BUCKSER
CHRISTOPHER C. DUNCAN
AMANDA K. DUNNICK
NIMA D. FELDMAN
BETH D. FINNSON
CELIA S. GABREL
DANIEL H. HESSELGESSER
ERICH KLEINSCHMIDT
AUDREY G. LUM
JACK F. MARTINEZ
PRISCILLA RODRIGUEZ
KAREN J. SICARD
COLLEEN E. WHITE
FELICIA B. WILLIAMS

To be senior assistant health services officer

TRACY J. BRANCH
WILLIAM L. COOPER
DEBORAH A. DOODY
SUZANNE CAROLE HENNIGAN
SCARLETT A. LUSK