Mr. BEGICH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WICKER, and Mr. WYDEN):

S. Res. 8. A resolution relative to the death of the Honorable Claiborne de Borda Pell, former United States Senator for the State of Rhode Island; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Con. Res. 1. A concurrent resolution to provide for the counting on January 8, 2009, of the electoral votes for President and Vice President of the United States; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Con. Res. 2. A concurrent resolution extending the life of the Joint Congressional Committee on Inaugural Ceremonies; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. KENNEDY, Mr. BEGICH, Mrs. BOXER, Mr. DURBIN, Mr. MENENDEZ, Mr. BINGAMAN, Mr. CASEY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. MCCASKILL, Mr. LIEBERMAN, Ms. KLOBUCHAR, Mrs. CLINTON, Mr. SCHUMER):

S. 1. A bill to create jobs, restore economic growth, and strengthen America's middle class through measures that modernize the nation's infrastructure, enhance America's energy independence, expand educational opportunities, preserve and improve afforrdable health care, provide tax relief, and protect those in greatest need, and for other purposes; read the first time.

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

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

S. 1

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''American Recovery and Reinvestment Act of 2009''.

**SEC. 2. JOB CREATION, ECONOMIC GROWTH, AND A STRONG MIDDLE CLASS.**

It is the sense of Congress that Congress should enact, and the President should sign, legislation to create jobs, restore economic growth, and strengthen America's middle class through measures that—

(1) modernize the nation's infrastructure;

(2) enhance America's energy independence;

(3) expand educational opportunities;

(4) preserve and improve affordable health care;

(5) provide tax relief; and

(6) protect those in greatest need.

By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. KENNEDY, Mr. BEGICH, Mr. DURBIN, Mrs. BOXER, Mr. MENENDEZ, Mr. BINGAMAN, Mr. CASEY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. MCCASKILL, Mr. LIEBERMAN, Ms. KLOBUCHAR, Mrs. CLINTON, Mr. SCHUMER, and Ms. MIKULSKI):

S. 2. A bill to improve the lives of middle class families and provide them with greater opportunity to achieve the American dream; read the first time.

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

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

S. 2

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Middle Class Opportunity Act of 2009''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that Congress should enact, and the President should sign, legislation to improve the lives of middle class families and provide them with greater opportunity to achieve the American dream by—

(1) providing middle class tax relief while making the tax laws simpler and more reliable;

(2) promoting investments in the new economy and enacting policies that create good, well-paying jobs in the United States;

(3) enhancing the incentives and protections to help middle class families adequately meet their needs in retirement;

(4) improving programs to help families acquire the education and training to be productive participants in the modern economy;

(5) promoting families by improving the access and affordability of child and elder care;

(6) restoring fairness, prosperity, and economic security for working families by ensuring workers can exercise their rights to freely choose to form a union without employer interference; and

(7) removing barriers to fair pay for all workers.

By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. KENNEDY, Mr. BEGICH, Mr. DURBIN, Mr. WYDEN, Mrs. BOXER, Mr. MENENDEZ, Mr. BINGAMAN, Mr. CASEY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mrs. CLINTON, Mr. SCHUMER, and Ms. MIKULSKI):

S. 3. A bill to to protect homeowners and consumers by reducing foreclosures, ensuring the availability of credit for homeowners, businesses, and consumers, and reforming the financial regulatory system, and for other purposes; read the first time.

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

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

S. 3

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Homeowner Protection and Wall Street Accountability Act of 2009''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that Congress should enact, and the President should sign, legislation—

(1) to stabilize the housing market and assist homeowners by imposing a temporary moratorium on foreclosures, removing impediments to the modification of distressed mortgages, creating tax and other incentives to help prevent foreclosures and encourage refinancing into affordable and sustainable mortgage solutions, and pursuing other foreclosure-prevention policies through the Troubled Asset Relief Program or other programs;

(2) to ensure the safety and soundness of the United States financial system for investors by reforming the financial-regulatory system, strengthening systemic-risk regulation, enhancing market transparency, and increasing consumer protections in financial regulation to prevent predatory lending practices;

(3) to ensure credit-card accountability, responsibility and disclosure; and

(4) to stabilize credit markets for small-business lenders to enhance their ability to make loans to small firms, and stimulate the small-business loan markets by temporarily streamlining and investing in the loan programs of the Small Business Administration.

By Mr. REID (for himself, Mr. LEVIN, Mr. DODD, Mr. KERRY, Mr. HARKIN, Mr. KENNEDY, Mr. BEGICH, Mrs. CLINTON, Mr. DURBIN, Mrs. BOXER, Mr. MENENDEZ, Mr. BINGAMAN, Mr. CASEY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. MCCASKILL, Ms. KLOBUCHAR, and Mr. SCHUMER):

S. 4 A bill to guarantee affordable, quality health coverage for all Americans, and for other purposes; read the first time.

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

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

S. 4

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Comprehensive Health Reform Act of 2009''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that Congress should enact, and the President should sign, legislation to guarantee health coverage, improve health care quality and disease prevention, and reduce health care costs for all Americans and the health care system.

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By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. HARKIN, Mr. KENNEDY, Mr. BEGICH, Mrs. BOXER, Mr. DURBIN, Mr. MENENDEZ, Mr. BINGAMAN, Mrs. SHAHEEN, Mr. CASEY, Ms. STABENOW, Mrs. MCCASKILL, Mr. DODD, Ms. KLOBUCHAR, Mrs. CLINTON, Mr. AKAKA, Mr. SCHUMER, and Ms. MIKULSKI):

S. 5. A bill to improve the economy and security of the United States by reducing the dependence of the United States on foreign and unsustainable energy sources and the risks of global warming, and for other purposes; read the first time.

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

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

S. 5

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Cleaner, Greener, and Smarter Act of 2009''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that Congress should enact, and the President should sign, legislation to improve the economy and the security of the United States by reducing the dependence of the United States on foreign and unsustainable energy sources and the risks of global warming by—

(1) making and encouraging significant investments in green job creation and clean energy across the economy;

(2) diversifying and rapidly expanding the use of secure, efficient, and environmentally-friendly energy supplies and technologies;

(3) transforming the infrastructure of the United States to make the infrastructure sustainable and the United States more competitive globally, including transmission grid modernization and transportation sector electrification;

(4) requiring reductions in emissions of greenhouse gases in the United States and achieving reductions in emissions of greenhouse gases abroad;

(5) protecting consumers from volatile energy prices through better market oversight and enhanced energy efficiency standards and incentives; and

(6) eliminating wasteful and unnecessary tax breaks and giveaways that fail to move the United States toward a more competitive and cleaner energy future.

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By Mr. REID (for himself, Mr. DURBIN, Mr. KERRY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. BEGICH, Mrs. BOXER, Mr. MENENDEZ, Mr. BINGAMAN, Mrs. SHAHEEN, Mr. CASEY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mr. SCHUMER, and Ms. MIKULSKI):

S. 6. A bill to restore and enhance the national security of the United States; read the first time.

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

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

S. 6

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Restoring America's Power Act of 2009''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that Congress should enact, and the President should sign, legislation to restore and enhance the national security of the United States by—

(1) strengthening America's military capabilities and recognizing the service of United States troops and the commitment of their families by ensuring our Armed Forces receive proper training and equipment prior to deployment, support and medical care when they return home, and adequate dwell time between deployments;

(2) addressing the threat posed by Al Qaeda and other terrorist groups with a comprehensive military, intelligence, homeland security and diplomatic strategy and refocusing on Afghanistan and Pakistan as the United States transitions in Iraq;

(3) defeating extremist ideology by increasing the effectiveness of United States intelligence, diplomatic, and foreign assistance capabilities; restoring the United States standing in the world and strengthening alliances; and addressing transnational humanitarian and development challenges; and

(4) reducing the threat posed by unsecured nuclear materials and other weapons of mass destruction (WMD) and effectively addressing the security challenges posed by Iran and North Korea.

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By Mr. REID (for himself, Mr. LEVIN, Mr. DODD, Mr. KENNEDY, Mr. KERRY, Mr. BEGICH, Mr. LIEBERMAN, Mr. DURBIN, Mrs. BOXER, Mr. MENENDEZ, Mr. BINGAMAN, Mr. CASEY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mrs. CLINTON, Mr. AKAKA, Mr. SCHUMER, and Ms. MIKULSKI):

S. 7. A bill to expand educational opportunities for all Americans by increasing access to high-quality early childhood education and after school programs, advancing reform in elementary and secondary education, strengthening mathematics and science instruction, and ensuring that higher education is more affordable, and for other purposes; read the first time.

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

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

S. 7

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Education Opportunity Act of 2009''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that the Senate and the House of Representatives should pass, and the President should sign into law, legislation to expand educational opportunities for all Americans by—

(1) increasing access to high-quality early childhood education and expanding child care, after school, and extended learning opportunities;

(2) improving accountability and assessment measures for elementary and secondary school students, increasing secondary school graduation rates, and supporting elementary and secondary school improvement efforts;

(3) strengthening teacher preparation, induction, and support in order to recruit and retain qualified and effective teachers in high-need schools;

(4) enhancing the rigor and relevance of State academic standards and encouraging innovative reform at the middle and high school levels;

(5) strengthening mathematics and science curricula and instruction; and

(6) increasing Federal grant aid for students and the families of students, improving the rate of postsecondary degree completion, and providing tax incentives to make higher education more affordable.

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By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. BEGICH, Mr. DURBIN, Mrs. BOXER, Mr. MENENDEZ, Mr. BINGAMAN, Mr. CASEY, Mr. LAUTENBERG, Ms. STABENOW, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mrs. CLINTON, Mr. SCHUMER, and Ms. MIKULSKI):

S. 8. A bill to return the Government to the people by reviewing controversial ''midnight regulations'' issued in the waning days of the Bush Administration; read the first time.

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

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

S. 8

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Returning Government to the American People Act''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the Bush Administration should not rush into effect major new controversial regulations in its closing days;

(2) the incoming Administration, working with the Congress, should review and, if appropriate revise or reject such ''midnight regulations''; and

(3) if legislation is necessary to ensure the new Administration has this opportunity, that Congress should enact, and the President should sign, such legislation.

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By Mr. REID (for himself, Mr. LEVIN, Mr. KERRY, Mr. KENNEDY, Mr. BEGICH, Mr. DURBIN,

Mr. LEAHY, Mrs. BOXER, Mr. BINGAMAN, Mrs. MCCASKILL, Mr. LIEBERMAN, Ms. KLOBUCHAR, and Mr. SCHUMER):

S. 9. A bill to strenghten the United States economy, provide for more effective border and employment enforcement, and for other purposes; read the first time.

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

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

S. 9

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Stronger Economy, Stronger Borders Act of 2009''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that Congress should enact, and the President should sign, legislation to strengthen the economy, recognize the heritage of the United States as a nation of immigrants, and amend the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) by—

(1) providing more effective border and employment enforcement;

(2) preventing illegal immigration; and

(3) reforming and rationalizing avenues for legal immigration.

Mr. LEAHY. Mr. Presdient, as we begin the 111th Congress, we will try, once again, to enact comprehensive immigration reforms that have eluded us in the past several years. With an administration that understands the critical necessity of meaningful reform and that understands the policy failures of the last 8 years, I am hopeful that the new Congress can finally enact legislation consistent with our history as a nation of immigrants.

The majority leader has included immigration reform as among the legislative priorities for the new Congress. I look forward to working with him, Senator KENNEDY, Senator MCCAIN, and others interested in working toward the goal of immigration reform.

In 2006 and 2007, Congress attempted to pass practical and effective reforms to our immigration system. In 2006, the Senate did its part and passed legislation, only to be thwarted by those in the House of Representatives who opposed dealing with the issue in a meaningful way. In 2007, the House passed legislation only to have it blocked in the Senate by Republican Members opposed to effective reform.

If our immigration policies are to be effective and play a role in restoring America's image around the world, we must reject the failed policies of the last 8 years. We cannot continue to deny asylum seekers because they have been forced at the point of a gun to provide assistance to those engaged in terrorist acts. We cannot continue to label as terrorist organizations those who have stood by the United States in armed conflict. We must not tolerate the tragic and needless death of a person in our custody for lack of basic medical care. We must ensure that children are not needlessly separated from their parents and that family unity is respected.

We must move beyond the current policy that is focused on detaining and deporting those undocumented workers who have been abused and exploited by American employers but does nothing to change an environment that remains ripe for these abuses. We must protect the rights and opportunities of American workers and, at the same time, ensure that our Nation's farmers and employers have the help they need. We should improve the opportunities and make more efficient the processes for those who seek to come to America with the goal of becoming new Americans, whether to invest in our communities and create jobs, to be reunited with loved ones, or to seek freedom and opportunity and a better life. We must also live up to the goal of family reunification in our immigration policy and join at least 19 other nations that provide immigration equality to same-sex partners of different nationalities. And I believe we would be wise to reconsider the effectiveness and cost of a wall along our southern border, which has adversely affected the fragile environment and vibrant cross-border culture of an entire region. Such a wall stands as a symbol of fear and intolerance. This is not what America is about and we can do better.

Those who oppose a realistic solution to address the estimated millions of people currently living and working in the United States without proper documentation have offered no alternative solution other than harsh penalties and more enforcement. The policies of the last 8 years, which have served only to appease the most extreme ideologues, must be replaced with sensible solutions. I am confident that our country and our economy will be far more secure when those who are currently living in the shadows of our society are recognized and provided the means to become lawful residents, if not a path to citizenship.

As President-elect Obama's administration considers immigration issues, I look forward to working closely with them and with the Senate's leadership to find the best solutions. President-elect Obama's nominees to lead the Department of Homeland Security and the Department of Labor understand very well the importance of sensible border policies and the importance of workers' rights. The American people look to all of us to forge a consensus for immigration reform that rejects the extreme ideology that has attended this issue and prevented real progress.

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By Mr. REID (for himself, Mr. CONRAD, Mr. LEVIN, Mr. BEGICH, Mr. CARPER, Mr. DURBIN, Mrs. BOXER, Mr. MENENDEZ, Mr. BINGAMAN, Ms. STABENOW, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mrs. CLINTON, Mr. SCHUMER, and Ms. MIKULSKI):

S. 10. A bill to restore fiscal discipline and begin to address the long-term fiscal challenges facing the United States, and for other purposes; read the first time.

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

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

S. 10

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Fiscal Responsibility Act of 2009''.

**SEC. 2. SENSE OF CONGRESS ON FISCAL RESPONSIBILITY.**

It is the sense of Congress that Congress and the President should restore fiscal discipline and begin to address the long-term fiscal challenges facing the United States through–

(1) strong pay-as-you-go rules, to help block the approval of measures that would increase the deficit;

(2) recognition of warnings by both the Government Accountability Office and the Congressional Budget Office that the Federal budget is on an unsustainable path of rising deficits and debt;

(3) establishment by Congress and the President of a process—

(A) to analyze—

(i) the current and long-term actuarial financial condition of the Federal Government; and

(ii) the gap between the projected revenues and expenditures of the Federal Government;

(B) to identify factors that affect the long-term fiscal balance of the Federal Government;

(C) to analyze potential courses of action to address factors that affect the long-term fiscal balance of the Federal Government;

(D) to seek a bipartisan agreement, or set of agreements, that will—

(i) significantly improve the Nation's long-term fiscal imbalances and the gap between projected revenues and expenditures;

(ii) ensure the economic security of the United States; and

(iii) expand future prosperity and growth for all Americans;

(4) a thorough review of all Federal spending and tax expenditures by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury, that identifies items that are outdated, inefficient, poorly run, unnecessary, or otherwise undeserving of scarce Federal resources or that are in need of reform; and

(5) a review of the current system of taxation of the United States to ensure that burdens are borne fairly and equitably.

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By Mr. REID (for himself, Mrs. CLINTON, Mr. AKAKA, Mr. INOUYE, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mrs. MURRAY, Mr. MENENDEZ, Mr. LEVIN, Mr. BAUCUS, Mr. KERRY, Mrs. BOXER, Mr. CARPER, Mrs. FEINSTEIN, and Ms. STABENOW):

S. 21. A bill to reduce unintended pregnancy, reduce abortions, and improve access to women's heath care; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 21

*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 ''Prevention First Act''.

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



**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) Healthy People 2010 sets forth a reduction of unintended pregnancies as an important health objective for the Nation to achieve over the first decade of the new century, a goal first articulated in the 1979 Surgeon General's Report, Healthy People, and reiterated in Healthy People 2000: National Health Promotion and Disease Prevention Objectives.

(2) Although the Centers for Disease Control and Prevention (referred to in this section as the ''CDC'') included family planning in its published list of the Ten Great Public Health Achievements in the 20th Century, the United States still has one of the highest rates of unintended pregnancies among industrialized nations.

(3) Each year, nearly half of all pregnancies in the United States are unintended, and nearly half of unintended pregnancies end in abortion.

(4) In 2006, 36,200,000 women, more than half of all women of reproductive age, were in need of contraceptive services and supplies to help prevent unintended pregnancy, and nearly half of those were in need of public support for such care.

(5) The United States has some of the highest rates of sexually transmitted infections (STIs) among industrialized nations. In 2006, there were approximately 19,000,000 new cases of STIs, almost half of them occurring in young people ages 15 to 24. According to the Centers for Disease Control and Prevention, in addition to the burden on public health, STIs impose a tremendous economic burden with direct medical costs as high as $14,700,000,000 each year in 2006 dollars.

(6) Contraceptive use can improve overall health by enabling women to plan and space their pregnancies and has contributed to dramatic declines in maternal and infant mortality. Widespread use of contraceptives has been the driving force in reducing unintended pregnancies and sexually transmitted infections (STIs), and reducing the need for abortion in this nation. Contraceptive use also saves public health dollars. For every dollar spent to provide services in publicly funded family planning clinics, $4.02 in Medicaid expenses are saved because unintended births are averted.

(7) Reducing unintended pregnancy improves maternal health and is an important strategy in efforts to reduce maternal mortality. Women experiencing unintended pregnancy are at greater risk for physical abuse.

(8) A child born from an unintended pregnancy is at greater risk than a child born from an intended pregnancy of low birth weight, dying in the first year of life, being abused, and not receiving sufficient resources for healthy development.

(9) The ability to control fertility allows couples to achieve economic stability by facilitating greater educational achievement and participation in the workforce.

(10) Contraceptives are effective in preventing unintended pregnancy when used consistently and correctly. Without contraception, a sexually active woman has an 85 percent chance of becoming pregnant within a year.

(11) Approximately 50 percent of unintended pregnancies occur among women who do not use contraception.

(12) Many poor and low-income women cannot afford to purchase contraceptive services and supplies on their own. The number of women needing subsidized services has increased by more than 1,000,000 (7 percent) since 2000. A poor woman in the United States is now nearly 4 times as likely as a more affluent woman to have an unplanned pregnancy. Between 1994 and 2001, unintended pregnancy among low-income women increased by 29 percent, while unintended pregnancy decreased by 20 percent among women with higher incomes.

(13) Public health programs, such as the Medicaid program and family planning programs under title X of the Public Health Service Act, provide high-quality family planning services and other preventive health care to underinsured or uninsured individuals who may otherwise lack access to health care.

(14) Medicaid has become an essential source of support for the provision of subsidized family planning services and supplies. It is the single largest source of public funds supporting these services. In 2001, the program provided 6 in 10 of all public dollars spent on family planning services. In 2006, 12 percent of women of reproductive age (7,300,000 women ages 15 to 44) looked to Medicaid for their care and 37 percent of poor women of reproductive age rely upon Medicaid.

(15) Approximately 1,400,000 unintended pregnancies and 600,000 abortions are averted each year because of services provided in publicly funded clinics. In 2006, Title X (of the Public Health Service Act) service providers performed more than 2,400,000 Pap tests, 2,400,000 breast exams, and 5,800,000 tests for sexually transmitted diseases, including 652,426 HIV tests and 2,300,000 Chlamydia tests. One in 4 women who obtain reproductive health services from a medical provider do so at a publicly funded clinic.

(16) The stagnant funding for public family planning programs in combination with the increasing demand for subsidized services, the rising costs of contraceptive services and supplies, and the high cost of improved screening and treatment for cervical cancer and sexually transmitted infections has diminished the ability of clinics receiving funds under title X of the Public Health Services Act to adequately serve all those in need. At present, clinics are able to reach just 41 percent of the women needing subsidized services. Had Title X funding kept up with inflation since fiscal year 1980, it would now be funded at $759,000,000, instead of its fiscal year 2007 funding level of $283,000,000. Taking inflation into account, funding for Title X in constant dollars is 63 percent lower today than it was in fiscal year 1980.

(17) While the Medicaid program remains the largest source of subsidized family planning services, States are facing significant budgetary pressures to cut their Medicaid programs, putting many women at risk of losing coverage for family planning services.

(18) In addition, eligibility under the Medicaid program in many States is severely restricted, which leaves family planning services financially out of reach for many poor women. Many States have demonstrated tremendous success with Medicaid family planning waivers that allow States to expand access to Medicaid family planning services. However, the administrative burden of applying for a waiver poses a significant barrier to States that would like to expand their coverage of family planning programs through Medicaid.

(19) As of December of 2008, 27 States offered expanded family planning benefits as a result of Medicaid family planning waivers. The cost-effectiveness of these waivers was affirmed by a recent evaluation funded by the Centers for Medicare & Medicaid Services. This evaluation of six waivers found that all family planning programs under such waivers resulted in significant savings to both the Federal and State governments. Moreover, the researchers found measurable reductions in unintended pregnancy.

(20) Although employer-sponsored health plans have improved coverage of contraceptive services and supplies, largely in response to State contraceptive coverage laws, there is still significant room for improvement. The ongoing lack of coverage in health insurance plans, particularly in self-insured and individual plans, continues to place effective forms of contraception beyond the financial reach of many women.

(21) Including contraceptive coverage in private health care plans saves employers money. Not covering contraceptives in employee health plans costs employers 15 to 17 percent more than providing such coverage.

(22) Approved for use by the Food and Drug Administration, emergency contraception is a safe and effective way to prevent unintended pregnancy after unprotected sex. Research confirms that easier access to emergency contraceptives does not increase sexual risk-taking or sexually transmitted diseases.

(23) The available evidence shows that many women do not know about emergency contraception, do not know where to get it, or are unable to access it. Overcoming these obstacles could help ensure that more women use emergency contraception consistently and correctly.

(24) A November 2006 study of declining pregnancy rates among teens concluded that the reduction in teen pregnancy between 1995 and 2002 is primarily the result of increased use of contraceptives. As such, it is critically important that teens receive accurate, unbiased information about contraception.

(25) The American Medical Association, the American Nurses Association, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Public Health Association, and the Society for Adolescent Medicine, support responsible sex education that includes information about both abstinence and contraception.

(26) Teens who receive comprehensive sex education that includes discussion of contraception as well as abstinence are more likely than those who receive abstinence-only messages to delay sex, to have fewer partners, and to use contraceptives when they do become sexually active.

(27) Government-funded abstinence-only-until-marriage programs are precluded from discussing contraception except to talk about failure rates. An October 2006 report by the Government Accountability Office found that the Department of Health and Human Services does not review the materials of recipients of grants administered by such department for scientific accuracy and requires grantees to review their own materials for scientific accuracy. The GAO also reported on the Department's total lack of appropriate and customary measurements to determine if funded programs are effective. In addition, a separate letter from the Government Accountability Office found that the Department of Health and Human Services is in violation of Federal law by failing to enforce a requirement under the Public Health Service Act that Federally-funded grantees working to address the prevention of sexually transmitted diseases, including abstinence-only-until-marriage programs, must provide medically accurate information about the effectiveness of condoms.

(28) Recent scientific reports by the Institute of Medicine, the American Medical Association, and the Office on National AIDS Policy stress the need for sex education that includes messages about abstinence and provides young people with information about contraception for the prevention of teen pregnancy, HIV/AIDS, and other sexually transmitted diseases.

(29) A 2006 statement from the American Public Health Association (''APHA'') ''recognizes the importance of abstinence education, but only as part of a comprehensive sexuality education program . . . APHA calls for repealing current federal funding for abstinence-only programs and replacing it with funding for a new Federal program to promote comprehensive sexuality education, combining information about abstinence with age-appropriate sexuality education.''

(30) Comprehensive sex education programs respect the diversity of values and beliefs represented in the community and will complement and augment the sex education children receive from their families.

(31) Over 60 percent of the 56,300 annual new cases of HIV infections in the United States occur in youth ages 13 through 24. African American and Latino youth have been disproportionately affected by the HIV/AIDS epidemic. In 2005, Blacks and Latinos accounted for 84 percent of all new HIV infections among 13 to 19 year olds and 76 percent of HIV infections among 20 to 24 year olds in the United States even though, together, they represent only about 32 percent of people in these ages. Teens in the United States contract an estimated 9,000,000 sexually transmitted infections each year. By age 24, at least 1 in 4 sexually active people between the ages of 15 and 24 will have contracted a sexually transmitted infection.

(32) Approximately 50 young people a day, an average of two young people every hour of every day, are infected with HIV in the United States.

(33) In 1990, Congress passed the Medicaid Anti-Discriminatory Drug Price and Patient Benefit Restoration Act to ensure that Medicaid receives the lowest drug prices in the marketplace. Congress intentionally protected the practice of pharmaceutical companies offering charitable organizations and clinics nominally-priced drugs. As an unintended consequence of the Deficit Reduction Act of 2005, birth control prices have skyrocketed for millions of women who depend on safety net providers for their birth control. Birth control that previously cost only $5 to $10 per month is now prohibitively expensive, running as much as $40 or $50 a month. Many family planning health centers have absorbed much of this price increase, further straining already limited resources. As the economic crisis worsens, women and their families are increasingly turning to health care safety net providers, such as family planning health centers, for a reliable source of care.

## TITLE I—TITLE X OF PUBLIC HEALTH SERVICE ACT

**SEC. 101. SHORT TITLE.**

This title may be cited as the ''Title X Family Planning Services Act of 2009''.

**SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

For the purpose of making grants and contracts under section 1001 of the Public Health Service Act, there are authorized to be appropriated $700,000,000 for fiscal year 2010 and such sums as may be necessary for each subsequent fiscal year.

## TITLE II—EQUITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE

**SEC. 201. SHORT TITLE.**

This title may be cited as the ''Equity in Prescription Insurance and Contraceptive Coverage Act of 2007''.

**SEC. 202. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

**''SEC. 715. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.**

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug shall be consistent with those imposed for other outpatient prescription drugs otherwise covered under the plan or coverage;

''(ii) benefits for contraceptive devices under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device shall be consistent with those imposed for other outpatient prescription devices otherwise covered under the plan or coverage; and

''(iii) benefits for outpatient contraceptive services under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service shall be consistent with those imposed for other outpatient health care services otherwise covered under the plan or coverage;

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or

investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services; or

''(C) as modifying, diminishing, or limiting the rights or protections of an individual under any other Federal law.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan, except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides coverage or protections for participants or beneficiaries that are greater than the coverage or protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

''Sec. 715. Standards relating to benefits for contraceptives.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2010.

**SEC. 203. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.**

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

**''SEC. 2708. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.**

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug shall be consistent with those imposed for other outpatient prescription drugs otherwise covered under the plan or coverage;

''(ii) benefits for contraceptive devices under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device shall be consistent with those imposed for other outpatient prescription devices otherwise covered under the plan or coverage; and

''(iii) benefits for outpatient contraceptive services under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service shall be consistent with those imposed for other outpatient health care services otherwise covered under the plan or coverage;

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services; or

''(C) as modifying, diminishing, or limiting the rights or protections of an individual under any other Federal law.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 715(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides coverage or protections for enrollees that are greater than the coverage or protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 2010.

**SEC. 204. AMENDMENT TO PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.**

(a) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

**''SEC. 2754. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.**

''The provisions of section 2708 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2008.

## TITLE III—EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION

**SEC. 301. SHORT TITLE.**

This title may be cited as the ''Emergency Contraception Education Act of 2009''.

**SEC. 302. EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION PROGRAMS.**

(a) DEFINITIONS.—For purposes of this section:

(1) EMERGENCY CONTRACEPTION.—The term ''emergency contraception'' means a drug or device (as the terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) or a drug regimen that is—

(A) used after sexual relations;

(B) prevents pregnancy, by preventing ovulation, fertilization of an egg, or implantation of an egg in a uterus; and

(C) approved by the Food and Drug Administration.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' means an individual who is licensed or certified under State law to provide health care services and who is operating within the scope of such license.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has

the same meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) EMERGENCY CONTRACEPTION PUBLIC EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop and disseminate to the public information on emergency contraception.

(2) DISSEMINATION.—The Secretary may disseminate information under paragraph (1) directly or through arrangements with nonprofit organizations, consumer groups, institutions of higher education, Federal, State, or local agencies, clinics, and the media.

(3) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum, a description of emergency contraception and an explanation of the use, safety, efficacy, and availability of such contraception.

(c) EMERGENCY CONTRACEPTION INFORMATION PROGRAM FOR HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with major medical and public health organizations, shall develop and disseminate to health care providers information on emergency contraception.

(2) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum—

(A) information describing the use, safety, efficacy, and availability of emergency contraception;

(B) a recommendation regarding the use of such contraception in appropriate cases; and

(C) information explaining how to obtain copies of the information developed under subsection (b) for distribution to the patients of the providers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2010 through 2014.

## TITLE IV—COMPASSIONATE ASSISTANCE FOR RAPE EMERGENCIES

**SEC. 401. SHORT TITLE.**

This title may be cited as the ''Compassionate Assistance for Rape Emergencies Act of 2009''.

**SEC. 402. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.**

(a) IN GENERAL.—Federal funds may not be provided to a hospital under any health-related program, unless the hospital meets the conditions specified in subsection (b) in the case of—

(1) any woman who presents at the hospital and states that she is a victim of sexual assault, or is accompanied by someone who states she is a victim of sexual assault; and

(2) any woman who presents at the hospital whom hospital personnel have reason to believe is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS.—The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

(1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that—

(A) emergency contraception does not cause an abortion; and

(B) emergency contraception is effective in most cases in preventing pregnancy after unprotected sex.

(2) The hospital promptly offers emergency contraception to the woman, and promptly provides such contraception to her on her request.

(3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

(4) The services described in paragraphs (1) through (3) are not denied because of the inability of the woman or her family to pay for the services.

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

(1) The term ''emergency contraception'' means a drug, drug regimen, or device that—

(A) is used postcoitally;

(B) prevents pregnancy by delaying ovulation, preventing fertilization of an egg, or preventing implantation of an egg in a uterus; and

(C) is approved by the Food and Drug Administration.

(2) The term ''hospital'' has the meanings given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title.

(3) The term ''Secretary'' means the Secretary of Health and Human Services.

(4) The term ''sexual assault'' means coitus in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA.—This section takes effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

## TITLE V—AT-RISK COMMUNITIES TEEN PREGNANCY PREVENTION ACT

**SEC. 501. SHORT TITLE.**

This title may be cited as the ''At-Risk Communities Teen Pregnancy Prevention Act of 2009''.

**SEC. 502. TEENAGE PREGNANCY PREVENTION.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by inserting after section 399N the following section:

**''SEC. 399N–1. TEENAGE PREGNANCY PREVENTION GRANTS.**

''(a) AUTHORITY.—The Secretary may award on a competitive basis grants to public and private entities to establish or expand teenage pregnancy prevention programs.

''(b) GRANT RECIPIENTS.—Grant recipients under this section may include State and local not-for-profit coalitions working to prevent teenage pregnancy, State, local, and tribal agencies, schools, entities that provide after-school programs, and community and faith-based groups.

''(c) PRIORITY.—In selecting grant recipients under this section, the Secretary shall give—

''(1) highest priority to applicants seeking assistance for programs targeting communities or populations in which—

''(A) teenage pregnancy or birth rates are higher than the corresponding State average; or

''(B) teenage pregnancy or birth rates are increasing; and

''(2) priority to applicants seeking assistance for programs that—

''(A) will benefit underserved or at-risk populations such as young males or immigrant youths; or

''(B) will take advantage of other available resources and be coordinated with other programs that serve youth, such as workforce development and after school programs.

''(d) USE OF FUNDS.—Funds received by an entity as a grant under this section shall be used for programs that—

''(1) replicate or substantially incorporate the elements of one or more teenage pregnancy prevention programs that have been proven (on the basis of rigorous scientific research) to delay sexual intercourse or sexual activity, increase condom or contraceptive use without increasing sexual activity, or reduce teenage pregnancy; and

''(2) incorporate one or more of the following strategies for preventing teenage pregnancy: encouraging teenagers to delay sexual activity; sex and HIV education; interventions for sexually active teenagers; preventive health services; youth development programs; service learning programs; and outreach or media programs.

''(e) COMPLETE INFORMATION.—Programs receiving funds under this section that choose to provide information on HIV/AIDS or contraception or both must provide information that is complete and medically accurate.

''(f) RELATION TO ABSTINENCE-ONLY PROGRAMS.—Funds under this section are not intended for use by abstinence-only education programs. Abstinence-only education programs that receive Federal funds through the Maternal and Child Health Block Grant, the Administration for Children and Families, the Adolescent Family Life Program, and any other program that uses the definition of 'abstinence education' found in section 510(b) of the Social Security Act are ineligible for funding.

''(g) APPLICATIONS.—Each entity seeking a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

''(h) MATCHING FUNDS.—

''(1) IN GENERAL.—The Secretary may not award a grant to an applicant for a program under this section unless the applicant demonstrates that it will pay, from funds derived from non-Federal sources, at least 25 percent of the cost of the program.

''(2) APPLICANT'S SHARE.—The applicant's share of the cost of a program shall be provided in cash or in kind.

''(i) SUPPLEMENTATION OF FUNDS.—An entity that receives funds as a grant under this section shall use the funds to supplement and not supplant funds that would otherwise be available to the entity for teenage pregnancy prevention.

''(j) EVALUATIONS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) conduct or provide for a rigorous evaluation of 10 percent of programs for which a grant is awarded under this section;

''(B) collect basic data on each program for which a grant is awarded under this section; and

''(C) upon completion of the evaluations referred to in subparagraph (A), submit to the Congress a report that includes a detailed statement on the effectiveness of grants under this section.

''(2) COOPERATION BY GRANTEES.—Each grant recipient under this section shall provide such information and cooperation as may be required for an evaluation under paragraph (1).

''(k) DEFINITION.—For purposes of this section, the term 'rigorous scientific research' means based on a program evaluation that:

''(1) Measured impact on sexual or contraceptive behavior, pregnancy or childbearing.

''(2) Employed an experimental or quasi-experimental design with well-constructed and appropriate comparison groups.

''(3) Had a sample size large enough (at least 100 in the combined treatment and control group) and a follow-up interval long

enough (at least six months) to draw valid conclusions about impact.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2010 and each subsequent fiscal year.''.

**SEC. 503. RESEARCH.**

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall make grants to public or nonprofit private entities to conduct, support, and coordinate research on the prevention of teen pregnancy in eligible communities, including research on the factors contributing to the disproportionate rates of teen pregnancy in such communities.

(b) RESEARCH.—In carrying out subsection (a), the Secretary of Health and Human Services shall support research that—

(1) investigates and determines the incidence and prevalence of teen pregnancy in communities described in such subsection;

(2) examines—

(A) the extent of the impact of teen pregnancy on—

(i) the health and well-being of teenagers in the communities; and

(ii) the scholastic achievement of such teenagers;

(B) the variance in the rates of teen pregnancy by—

(i) location (such as inner cities, inner suburbs, and outer suburbs);

(ii) population subgroup (such as Hispanic, Asian-Pacific Islander, African-American, Native American); and

(iii) level of acculturation;

(C) the importance of the physical and social environment as a factor in placing communities at risk of increased rates of teen pregnancy; and

(D) the importance of aspirations as a factor affecting young women's risk of teen pregnancy; and

(3) is used to develop—

(A) measures to address race, ethnicity, socioeconomic status, environment, and educational attainment and the relationship to the incidence and prevalence of teen pregnancy; and

(B) efforts to link the measures to relevant databases, including health databases.

(c) PRIORITY.—In making grants under subsection (a), the Secretary of Health and Human Services shall give priority to research that incorporates—

(1) interdisciplinary approaches; or

(2) a strong emphasis on community-based participatory research.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014.

**SEC. 504. GENERAL REQUIREMENTS.**

(a) MEDICALLY ACCURATE INFORMATION.—A grant may be made under this title only if the applicant involved agrees that all information provided pursuant to the grant will be age-appropriate, factually and medically accurate and complete, and scientifically based.

(b) CULTURAL CONTEXT OF SERVICES.—A grant may be made under this title only if the applicant involved agrees that information, activities, and services under the grant that are directed toward a particular population group will be provided in the language and cultural context that is most appropriate for individuals in such group.

(c) APPLICATION FOR GRANT.—A grant may be made under this title only if an application for the grant is submitted to the Secretary of Health and Human Services and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary of Health and Human Services determines to be necessary to carry out the program involved.

## TITLE VI—ACCURACY OF CONTRACEPTIVE INFORMATION

**SEC. 601. SHORT TITLE.**

This title may be cited as the ''Truth in Contraception Act of 2009''.

**SEC. 602. ACCURACY OF CONTRACEPTIVE INFORMATION.**

Notwithstanding any other provision of law, any information concerning the use of a contraceptive provided through any federally funded sex education, family life education, abstinence education, comprehensive health education, or character education program shall be medically accurate and shall include health benefits and failure rates relating to the use of such contraceptive.

## TITLE VII—UNINTENDED PREGNANCY REDUCTION ACT

**SEC. 701. SHORT TITLE.**

This title may be cited as the ''Unintended Pregnancy Reduction Act of 2009''.

**SEC. 702. MEDICAID; CLARIFICATION OF COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.**

Section 1937(b) of the Social Security Act (42 U.S.C. 1396u–7(b)) is amended by adding at the end the following:

''(5) COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark-equivalent coverage under this section unless such coverage includes for any individual described in section 1905(a)(4)(C), medical assistance for family planning services and supplies in accordance with such section.''.

**SEC. 703. EXPANSION OF FAMILY PLANNING SERVICES.**

(a) COVERAGE AS MANDATORY CATEGORICALLY NEEDY GROUP.—

(1) IN GENERAL.—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)) is amended—

(A) in subclause (VI), by striking ''or'' at the end;

(B) in subclause (VII), by adding ''or'' at the end; and

(C) by adding at the end the following new subclause:

''(VIII) who are described in subsection (dd) (relating to individuals who meet the income standards for pregnant women);''.

(2) GROUP DESCRIBED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(dd)(1) Individuals described in this subsection are individuals—

''(A) meet at least the income eligibility standards established under the State plan as of January 1, 2009, for pregnant women or such higher income eligibility standard for such women as the State may establish; and

''(B) are not pregnant.

''(2) At the option of a State, individuals described in this subsection may include individuals who are determined to meet the income eligibility standards referred to in paragraph (1)(A) under the terms and conditions applicable to making eligibility determinations for medical assistance under this title under a waiver to provide the benefits described in clause (XV) of the matter following subparagraph (G) of section 1902(a)(10) granted to the State under section 1115 as of January 1, 2007.''.

(3) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(A) by striking ''and (XIV)'' and inserting ''(XIV)''; and

(B) by inserting '', and (XV) the medical assistance made available to an individual described in subsection (dd) shall be limited to family planning services and supplies described in 1905(a)(4)(C) including medical diagnosis and treatment services that are provided pursuant to a family planning service in a family planning setting;'' after ''cervical cancer''.

(4) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(A) in clause (xii), by striking ''or'' at the end;

(B) in clause (xii), by adding ''or'' at the end; and

(C) by inserting after clause (xiii) the following:

''(xiv) individuals described in section 1902(dd),''.

(b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

''PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING SERVICES

''SEC. 1920C. (a) STATE OPTION.—A State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(dd) (relating to individuals who meet certain income eligibility standards) during a presumptive eligibility period. In the case of an individual described in section 1902(dd)), such medical assistance shall be limited to family planning services and supplies described in 1905(a)(4)(C) including medical diagnosis and treatment services that are provided pursuant to a family planning service in a family planning setting.

''(b) DEFINITIONS.—For purposes of this section:

''(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The term 'presumptive eligibility period' means, with respect to an individual described in subsection (a), the period that—

''(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(dd); and

''(B) ends with (and includes) the earlier of—

''(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

''(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

''(2) QUALIFIED ENTITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'qualified entity' means any entity that—

''(i) is eligible for payments under a State plan approved under this title; and

''(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

''(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities.

''(c) ADMINISTRATION.—

''(1) IN GENERAL.—The State agency shall provide qualified entities with—

''(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

''(B) information on how to assist such individuals in completing and filing such forms.

''(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

''(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

''(B) inform such individual at the time the determination is made that an application for medical assistance is required to be made by not later than the last day of the month following the month during which the determination is made.

''(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance by not later than the last day of the month following the month during which the determination is made.

''(d) PAYMENT.—Notwithstanding any other provision of this title, medical assistance that—

''(1) is furnished to an individual described in subsection (a)—

''(A) during a presumptive eligibility period;

''(B) by a entity that is eligible for payments under the State plan; and

''(2) is included in the care and services covered by the State plan, shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: ''and provide for making medical assistance available to individuals described in subsection (a) of section 1920C during a presumptive eligibility period in accordance with such section.''.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking ''or for'' and inserting '', for''; and

(ii) by inserting before the period the following: '', or for medical assistance provided to an individual described in subsection (a) of section 1920C during a presumptive eligibility period under such section''.

**SEC. 704. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title take effect on October 1, 2009.

(b) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this title, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

## TITLE VIII—RESPONSIBLE EDUCATION ABOUT LIFE ACT

**SEC. 801. SHORT TITLE.**

This title may be cited as the ''Responsible Education About Life Act of 2009''.

**SEC. 802. ASSISTANCE TO REDUCE TEEN PREGNANCY, HIV/AIDS, AND OTHER SEXUALLY TRANSMITTED DISEASES AND TO SUPPORT HEALTHY ADOLESCENT DEVELOPMENT.**

(a) IN GENERAL.—Each eligible State shall be eligible to receive from the Secretary of Health and Human Services, for each of the fiscal years 2010 through 2014, a grant to conduct programs of family life education, including education on both abstinence and contraception for the prevention of teenage pregnancy and sexually transmitted diseases, including HIV/AIDS.

(b) REQUIREMENTS FOR FAMILY LIFE PROGRAMS.—For purposes of this title, a program of family life education is a program that—

(1) is age-appropriate and medically accurate;

(2) does not teach or promote religion;

(3) teaches that abstinence is the only sure way to avoid pregnancy or sexually transmitted diseases;

(4) stresses the value of abstinence while not ignoring those young people who have had or are having sexual intercourse;

(5) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy and reduce the risk of contracting sexually transmitted diseases, including HIV/AIDS;

(6) encourages family communication between parent and child about sexuality;

(7) teaches young people the skills to make responsible decisions about sexuality, including how to avoid unwanted verbal, physical, and sexual advances; and

(8) teaches young people how alcohol and drug use can effect responsible decision making.

(c) ADDITIONAL ACTIVITIES.—In carrying out a program of family life education, a State may expend a grant under subsection (a) to carry out educational and motivational activities that help young people—

(1) gain knowledge about the physical, emotional, biological, and hormonal changes of adolescence and subsequent stages of human maturation;

(2) develop the knowledge and skills necessary to ensure and protect their sexual and reproductive health from unintended pregnancy and sexually transmitted disease, including HIV/AIDS throughout their lifespan;

(3) gain knowledge about the specific involvement and responsibility of males in sexual decision making;

(4) develop healthy attitudes and values about adolescent growth and development, body image, racial and ethnic diversity, and other related subjects;

(5) develop and practice healthy life skills, including goal-setting, decision making, negotiation, communication, and stress management;

(6) develop healthy relationships, including the prevention of dating and relationship violence;

(7) promote self-esteem and positive interpersonal skills focusing on relationship dynamics, including friendships, dating, romantic involvement, marriage and family interactions; and

(8) prepare for the adult world by focusing on educational and career success, including developing skills for employment preparation, job seeking, independent living, financial self-sufficiency, and workplace productivity.

**SEC. 803. SENSE OF CONGRESS.**

It is the sense of Congress that while States are not required under this title to provide matching funds, with respect to grants authorized under section 802(a), they are encouraged to do so.

**SEC. 804. EVALUATION OF PROGRAMS.**

(a) IN GENERAL.—For the purpose of evaluating the effectiveness of programs of family life education carried out with a grant under section 802, evaluations of such program shall be carried out in accordance with subsections (b) and (c).

(b) NATIONAL EVALUATION.—

(1) IN GENERAL.—The Secretary shall provide for a national evaluation of a representative sample of programs of family life education carried out with grants under section 802. A condition for the receipt of such a grant is that the State involved agree to cooperate with the evaluation. The purposes of the national evaluation shall be the determination of—

(A) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(B) the effectiveness of such programs in preventing adolescent pregnancy;

(C) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS;

(D) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs; and

(E) a list of best practices based upon essential programmatic components of evaluated programs that have led to success in subparagraphs (A) through (D).

(2) REPORT.—A final report providing the results of the national evaluation under paragraph (1) shall be submitted to Congress not later than March 31, 2015, with an interim report provided on an annual basis at the end of each fiscal year under section 802(a).

(c) INDIVIDUAL STATE EVALUATIONS.—

(1) IN GENERAL.—A condition for the receipt of a grant under section 802 is that the State involved agree to provide for the evaluation of the programs of family education carried out with the grant in accordance with the following:

(A) The evaluation will be conducted by an external, independent entity.

(B) The purposes of the evaluation will be the determination of—

(i) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(ii) the effectiveness of such programs in preventing adolescent pregnancy;

(iii) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS; and

(iv) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs.

(2) USE OF GRANT.—A condition for the receipt of a grant under section 802 is that the State involved agree that not more than 10 percent of the grant will be expended for the evaluation under paragraph (1).

**SEC. 805. DEFINITIONS.**

For purposes of this title:

(1) The term ''eligible State'' means a State that submits to the Secretary an application for a grant under section 802 that is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

(2) The term ''HIV/AIDS'' means the human immunodeficiency virus, and includes acquired immune deficiency syndrome.

(3) The term ''medically accurate'', with respect to information, means information that is supported by research, recognized as accurate and objective by leading medical, psychological, psychiatric, and public health organizations and agencies, and where relevant, published in peer review journals.

(4) The term ''Secretary'' means the Secretary of Health and Human Services.

**SEC. 806. APPROPRIATIONS.**

(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014.

(b) ALLOCATIONS.—Of the amounts appropriated under subsection (a) for a fiscal year—

(1) not more than 7 percent may be used for the administrative expenses of the Secretary in carrying out this title for that fiscal year; and

(2) not more than 10 percent may be used for the national evaluation under section 804(b).

**TITLE IX—PREVENTION THROUGH AFFORDABLE ACCESS**

**SEC. 901. SHORT TITLE.**

This title may be cited as the ''Prevention Through Affordable Access Act''.

**SEC. 902. RESTORING AND PROTECTING ACCESS TO DISCOUNT DRUG PRICES FOR UNIVERSITY-BASED AND SAFETY-NET CLINICS.**

(a) RESTORING NOMINAL PRICING.—Section 1927(c)(1)(D)(i) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(D)(i)) is amended—

(1) by redesignating subclause (IV) as subclause (VI); and

(2) by inserting after subclause (III) the following new subclauses:

''(IV) An entity that is operated by a health center of an institution of higher education, the primary purpose of which is to provide health services to students of that institution.

''(V) An entity that is a public or private nonprofit entity that provides a service or services described under section 1001(a) of the Public Health Service Act.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of the date of the enactment of this Act.

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By Mrs. HUTCHISON (for herself, Mr. ALEXANDER, Mr. ENSIGN, Mr. CORNYN, and Mr. MARTINEZ):

S. 35. A bill to provide a permanent deduction for State and local general sales taxes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to permanently correct an injustice in the tax code that has harmed citizens in many States of this great Nation.

State and local governments have various alternatives for raising revenue. Some levy income taxes, some use sales taxes, and others use a combination of the two. The citizens who pay State and local income taxes have been able to offset some of their federal income taxes by receiving a deduction for those State and local income taxes. Before 1986, taxpayers also had the ability to deduct their sales taxes.

The philosophy behind these deductions is simple: people should not have to pay taxes on their taxes. The money that people must give to one level of government should not also be taxed by another level of government.

Unfortunately, citizens of some States were treated differently after 1986 when the deduction for State and local sales taxes was eliminated. This discriminated against those living in States, such as my home State of Texas, with no income taxes. It is important to remember the lack of an income tax does not mean citizens in these States do not pay State taxes; revenues are simply collected differently.

It is unfair to give citizens from some States a deduction for the revenue they provide their State and local governments, while not doing the same for citizens from other States. Federal tax law should not treat people differently on the basis of State residence and differing tax collection methods, and it should not provide an incentive for States to establish income taxes over sales taxes.

This discrepancy has a significant impact on Texas. According to the Texas Comptroller, extending the deduction would save Texans a projected $1.2 billion a year, or an average of $520 per filer claiming the deduction. The Texas Comptroller also estimates continuing the deduction is associated with 15,700 to 25,700 Texas jobs and $1.1 billion to $1.4 billion in gross State product.

Recognizing the inequity in the tax code, Congress reinstated the sales tax deduction in 2004 and authorized it for 2 years. In 2006 Congress extended the sales tax deduction for an additional 2 years. Last year, Congress extended the deduction for 2 more years. Unfortunately, the deduction is only in effect through 2009, and we must act to prevent the inequity from returning.

The legislation I am offering today will fix this problem for good by making the State and local sales tax deduction permanent. This will permanently end the discrimination suffered by my fellow Texans and citizens of other States who do not have the option of an income tax deduction.

This legislation is about reestablishing equity to the tax code and defending the important principle of eliminating taxes on taxes. I hope my fellow Senators will support this effort and pass this legislation.

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

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

S. 35

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

**SECTION 1. PERMANENT EXTENSION OF DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES.**

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) of the Internal Revenue Code of 1986, as amended by section 201 of the Tax Extenders and Minimum Tax Relief Act of 2008, is amended by striking '', and before January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

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By Mr. MCCAIN (for himself and Mr. ENSIGN):

S. 36. A bill to repeat the perimeter rule for Ronald Reagan Washington National Airport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined by Senator ENSIGN in introducing the Abolishing Aviation Barriers Act of 2009. This bill would remove the arbitrary restrictions that prevent Americans from having an array of options for non-stop air travel between airports in Western states and LaGuardia International Airport and Ronald Reagan Washington National Airport.

LaGuardia restricts the departure or arrival of non-stop flights to or from airports that are farther then 1,500 miles from LaGuardia. Washington National has a similar restriction for non-stop flights to or from airports 1,250 miles from Washington National. These restrictions are commonly referred to as the ''perimeter rule.'' This bill would abolish these archaic limitations that reduce consumers' options for convenient flights and competitive fares.

The original purpose of the perimeter rule was to promote LaGuardia and Washington National as airports for business travelers flying to and from East Coast and Midwest cities and to promote traffic to other airports by diverting long haul flights to Newark and Kennedy airports in the New York area and the Dulles airport in the Washington area. However, over the years, Congress has granted numerous exceptions to the perimeter rule because the air traveling public is eager for options. Today, exceptions are made for nonstop flights between LaGuardia and Denver and between Washington National and Denver, Las Vegas, Los Angeles, Phoenix, Salt Lake City and Seattle. Rather then continuing to take a piecemeal approach to promoting consumer choice, I urge Congress to take this opportunity once and for all to do away with this outdated rule.

I continue to believe that Americans should have access to air travel at the lowest possible cost and with the most convenience for their schedule. Therefore, I have always advocated for the removal of any artificial barrier that prevents free market competition. In 2004, I co-sponsored legislation to repeal the Wright Amendment which prohibited flights from Dallas' Love Field airport to 43 states. This year, I am proud to once again join with my colleagues to eliminate another unnecessary restraint through the Abolishing Aviation Barriers Act of 2009.

A 1999 study by the Transportation Research Board, the most recent available, stated that perimeter rules ''no longer serve their original purpose and have produced too many adverse side effects, including barriers to competition . . . The rules arbitrarily prevent some airlines from extending their networks to these airports; they discourage competition among the airports in the region and among the airlines that use these airports; and they are subject to chronic attempts by special interest groups to obtain exemptions.'' That same year, the Government Accountability Office, GAO, stated that the

''practical effect'' of the perimeter rule ''has been to limit entry'' of other carriers and found that airfares at LaGuardia and Washington National are approximately 50 percent higher on average than fares at similar airports unconstrained by the perimeter rule. Such an anticompetitive rule should not remain in effect, particularly where its anticompetitive impact has long been recognized.

For this reason, I will continue the struggle to try to remove the perimeter rule and other anti-competitive restrictions that increase consumer costs and decrease convenience for no apparent benefit.

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By Mr. MCCAIN:

S. 37. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit; to the Committee on Finance.

Mr. MCCAIN. Mr. President, today I introduce the Economic Growth Through Innovation Act of 2009. This bill would make permanent the current research and development tax credit. Otherwise, this tax credit will expire on December 31, 2009.

A permanent credit would provide an incentive to innovate, and remove uncertainty now hanging over businesses as they make research and development investment decisions for 2010 and beyond. The research and development tax credit was first established in 1981 and has been extended and revised repeatedly since then. Failure to make the tax credit permanent has led to reduced investment in research, which has led to fewer jobs being created in the United States. Tax policies have a powerful influence on business investment and hiring decisions, and that is why I have chosen to introduce this bill on the first day of the 111th Congress. Additionally, both President-elect Obama and I were in full agreement during the campaign that making permanent the research and development tax credit is critical to spurring investment in developing technologies.

In the 1980s, the U.S. was a leader among nations for providing the most generous tax treatment of research and development. By 2004, the most recent study, the United States had fallen to 17th, which explains why the U.S. is no longer considered by many to be the world leader in innovation and technology. A permanent, meaningful research and development tax credit will ensure that businesses keep funding research and development, which may lead to numerous new discoveries in the U.S. such as fuel-efficient vehicles, cancer treatment or the development of clean energy.

Studies have shown that on average, companies invest $94 in research and development for every $6 the Federal Government invests in the tax credit. While I understand that some economists have estimated this tax credit may cost many billions of dollars in tax revenue to the Federal government, I believe it is essential to spurring an economic recovery.

Companies of all sizes, in a wide range of industries, have taken advantage of the research and development tax credit during its existence. According to a recent study by Ernst & Young, 17,700 businesses claimed $6.6 billion research and development tax credits on their tax returns in 2005, the most recent year available. Almost a quarter of these businesses were small businesses with $1 million of assets or less, and almost half were businesses with assets of $1–$5 million, which is the lifeblood of the U.S. economy. Firms in the manufacturing, information and services sectors claimed the majority of the credit, and the states with the highest number of companies reporting research and development activity include those States that have been hit the hardest by the depressed economy such as Michigan, Pennsylvania and California.

Congress has endorsed the credit by extending it 13 times since enactment, and several times the credit has been reinstated retroactively. Yet, it has never been made permanent, creating a less certain investment atmosphere. With so many Republicans and Democrats in agreement that this tax credit must be made permanent, including President-elect Obama, I hope this bill will be given swift consideration and signed into law during the first few months of 2009 to increase our nation's ability to innovate, create jobs and improve our sagging economy.

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By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 38. A bill to establish a United States Boxing Commission to administer the Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am pleased to be joined by Senator DORGAN in introducing the Professional Boxing Amendments Act of 2009. This legislation is virtually identical to a measure reported by the Commerce Committee during the first executive session of the 110th Congress, after being approved unanimously by the Senate in 2005. Simply put, this bill would better protect professional boxing from the fraud, corruption, and ineffective regulation that have plagued the sport for far too many years, and that have devastated physically and financially many of our Nation's professional boxers. I remain committed to moving the Professional Boxing Amendments Act through the Senate and I trust that my colleagues will once again vote favorably on this important legislation.

Since 1996, Congress has made efforts to improve the sport of professional boxing—and for very good reason. With rare exception, professional boxers come from the lowest rung on our economic ladder. Often they are the least educated and most exploited athletes in our nation. The Professional Boxing Safety Act of 1996 and the Muhammad Ali Boxing Reform Act of 2000 established uniform health and safety standards for professional boxers, as well as basic protections for boxers against the sometimes coercive, exploitative, and unethical business practices of promoters, managers, and sanctioning organizations. But further action is needed.

The Professional Boxing Amendments Act would strengthen existing Federal boxing law by improving the basic health and safety standards for professional boxers, establishing a centralized medical registry to be used by local commissions to protect boxers, reducing the arbitrary practices of sanctioning organizations, and enhancing the uniformity and basic standards for professional boxing contracts. Most importantly, this legislation would establish a Federal regulatory entity to oversee professional boxing and set basic uniform standards for certain aspects of the sport.

Current law has improved to some extent the state of professional boxing. However, I remain concerned, as do many others, that the sport remains at risk. In 2003, the Government Accountability Office spent more than six months studying ten of the country's busiest state and tribal boxing commissions. Government auditors found that many State and tribal boxing commissions still do not comply with Federal boxing law, and that there is a troubling lack of enforcement by both Federal and State officials.

Ineffective and inconsistent oversight of professional boxing has contributed to the continuing scandals, controversies, unethical practices, and unnecessary deaths in the sport. These problems have led many in professional boxing to conclude that the only solution is an effective and accountable Federal boxing commission. The Professional Boxing Amendments Act would create such an entity.

Professional boxing remains the only major sport in the United States that does not have a strong, centralized association, league, or other regulatory body to establish and enforce uniform rules and practices. Because a powerful few benefit greatly from the current system of patchwork compliance and enforcement of Federal boxing law, a national self-regulating organization—though preferable to Federal government oversight is not a realistic option.

This bill would establish the United States Boxing Commission ''USBC'' or Commission. The Commission would be responsible for protecting the health, safety, and general interests of professional boxers. The USBC would also be responsible for ensuring uniformity, fairness, and integrity in professional boxing. More specifically, the Commission would administer Federal boxing law and coordinate with other Federal regulatory agencies to ensure that this law is enforced; oversee all professional boxing matches in the United States; and work with the boxing industry and local commissions to improve the safety, integrity, and professionalism of

professional boxing in the United States.

The USBC would also license boxers, promoters, managers, and sanctioning organizations. The Commission would have the authority to revoke such a license for violations of Federal boxing law, to stop unethical or illegal conduct, to protect the health and safety of a boxer, or if the revocation is otherwise in the public interest.

It is important to state clearly and plainly for the record that the purpose of the USBC is not to interfere with the daily operations of State and tribal boxing commissions. Instead, the Commission would work in consultation with local commissions, and it would only exercise its authority when reasonable grounds exist for such intervention. In point of fact, the Professional Boxing Amendments Act states explicitly that it would not prohibit any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing to the extent not inconsistent with the provisions of Federal boxing law.

Let there be no doubt, however, of the very basic and pressing need in professional boxing for a Federal boxing commission. The establishment of the USBC would address that need. The problems that plague the sport of professional boxing undermine the credibility of the sport in the eyes of the public and—more importantly—compromise the safety of boxers. The Professional Boxing Amendments Act provides an effective approach to curbing these problems.

As this measure continues through the legislative process, I fully expect Congress will ensure that funding offsets are provided to it and every other spending measure as we work to restore fiscal discipline to Washington in a bipartisan manner. I urge my colleagues to support this legislation.

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By Mr. MCCAIN (for himself and Mr. KYL):

S. 39. A bill to repeal section 10(f) of Public Law 93–531, commonly known as the ''Bennett Freeze''; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I am pleased to introduce legislation that would repeal section 10(f) of Public Law 93–531, commonly known as the ''Bennett Freeze.'' Passage of this legislation would officially mark the end of roughly 40 years of litigation and landlock between the Navajo Nation and the Hopi Tribe.

For decades the Navajo and the Hopi have been engrossed in a bitter dispute over land rights in the Black Mesa area just south of Kayenta, Arizona. The conflict extends as far back as 1882 when the boundaries of the Hopi and Navajo reservations were initially defined resulting in a tragic saga of litigation and damaging federal Indian policy. By 1966, relations between the tribes became so strained over development and access to sacred religious sites in the disputed area that the federal government imposed a construction freeze on the disputed reservation land. The freeze prohibited any additional housing development in the Black Mesa area and restricted repairs on existing dwellings. This injunction became known as the ''Bennett Freeze,'' named after former BIA Commissioner Robert Bennett who imposed the ban.

The Bennett Freeze was intended to be a temporary measure to prevent one tribe taking advantage of another until the land dispute could be settled. Unfortunately, the conflict was nowhere near resolution, and the construction freeze ultimately devastated economic development in northern Arizona for years to come. By some accounts, nearly 8,000 people currently living in the Bennett Freeze area reside in conditions that haven't changed in half a century. While the population of the area has increased 65 percent, generations of families have been forced to live together in homes that have been declared unfit for human habitation by the United Nations and non-governmental organizations. Only 3 percent of the families affected by the Bennett Freeze have electricity. Only 10 percent have running water. Almost none have natural gas.

In September 2005, the Navajo and Hopi peoples' desire to live together in mutual respect prevailed when both tribes approved an intergovernmental agreement that resolved all outstanding litigation in the Bennett Freeze area. This landmark agreement also clarifies the boundaries of the Navajo and Hopi reservations in Arizona, and ensures that access to religious sites of both tribes in protected. As such, the Navajo Nation, the Hopi Tribe, and the Department of Interior all support congressional legislation to lift the freeze.

The bill I am introducing today would repeal the Bennett Freeze. The intergovernmental compact approved last year by both tribes, the Department of Interior, and signed by the U.S. District Court for Arizona, marks a new era in Navajo-Hopi relations. Lifting the Bennett Freeze gives us an opportunity to put decades of conflict between the Navajo and Hopi behind us.

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By Mr. MCCAIN (for himself and Mr. KYL):

S. 40. A bill to designate Fossil Creek, a tributary of the Verde River in the State of Arizona, as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined by my colleague, Senator KYL, in reintroducing a bill to designate Fossil Creek as a Wild and Scenic River.

Fossil Creek is a thing of beauty. With its picturesque scenery, lush riparian ecosystem, unique geological features, and deep iridescent blue pools and waterfalls, this tributary to the Wild and Scenic Verde River and Lower Colorado River Watershed stretches 14 miles through east central Arizona. It is home to a wide variety of wildlife, some of which are threatened or endangered species. Over 100 bird species inhabit the Fossil Creek area and use it to migrate between the range lowlands and the Mogollon-Colorado Plateau highlands. Fossil Creek also supports a variety of aquatic species and is one of the few perennial streams in Arizona with multiple native fish.

Fossil Creek was named in the 1800s when early explorers described the fossil-like appearance of creek-side rocks and vegetation coated with calcium carbonate deposits from the creek's water. In the early 1900s, pioneers recognized the potential for hydroelectric power generation in the creek's constant and abundant spring fed baseflow. They claimed the channel's water rights and built a dam system and generating facilities known as the Childs-Irving hydro-project. Over time, the project was acquired by Arizona Public Service, APS, one of the state's largest electric utility providers serving more than a million Arizonans. Because Childs-Irving produced less then half of 1 percent of the total power generated by APS, the decision was made ultimately to decommission the aging dam and restore Fossil Creek to its pre-settlement conditions.

APS has partnered with various environmental groups, federal land managers, and state, tribal and local governments to safely remove the Childs-Irving power generating facilities and restore the riparian ecosystem. In 2005, APS removed the dam system and returned full flows to Fossil Creek. Researchers predict Fossil Creek will soon become a fully regenerated Southwest native fishery providing a most-valuable opportunity to reintroduce at least six threatened and endangered native fish species as well as rebuild the native populations presently living in the creek.

There is a growing need to provide additional protection and adequate staffing and management at Fossil Creek. Recreational visitation to the riverbed is expected to increase dramatically, and by the Forest Service's own admission, they aren't able to manage current levels of visitation or the pressures of increased use. While responsible recreation and other activities at Fossil Creek are to be encouraged, we must also ensure the long-term success of the ongoing restoration efforts. Designation under the Wild and Scenic Rivers Act would help to ensure the appropriate level of protection and resources are devoted to Fossil Creek. Already, Fossil Creek has been found eligible for Wild and Scenic designation by the Forest Service and the proposal has widespread support from surrounding communities. All of the lands potentially affected by a designation are owned and managed by the Forest Service and will not affect private

property owners. I fully expect that as this measure continues through the legislative process, Congress will ensure that funding offsets are provided to it and every other spending measure as we work to restore fiscal discipline to Washington in a bipartisan manner.

Fossil Creek is a unique Arizona treasure, and would benefit greatly from the protection and recognition offered through Wild and Scenic designation.

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By Mr. LEAHY (for himself and Mr. CORNYN):

S. 49. A bill to help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law; to the Committee on Finance.

Mr. LEAHY. Mr. Presdient, I am pleased to join with Senator CORNYN once again to introduce the Public Corruption Prosecution Improvements Act of 2009, a bill that will strengthen and clarify key aspects of Federal criminal law and provide new tools to help investigators and prosecutors attack public corruption nationwide.

The start of a new Congress presents a unique opportunity to restore the faith of the American people in their government. That is why I sought to offer an early version of this bill as my first amendment two years ago when that new Congress began. Regrettably, a Republican objection to it prevented its adoption at that time.

As we have seen in recent months, public corruption can erode the trust the American people have in those who are given the privilege of public service. Too often, though, loopholes in existing laws have meant that corrupt conduct can go unchecked.

Make no mistake: The stain of corruption has spread to all levels of government. This is a problem that victimizes every American by chipping away at the foundations of our democracy. Rooting out the kinds of public corruption that have resulted in convictions of members of both the Senate and the House, and many others, requires us to give prosecutors the tools and resources they need to investigate and prosecute criminal public corruption offenses. This bill will do exactly that.

The bill Senator CORNYN and I introduce today will provide investigators and prosecutors more time and, even more crucially, more resources to pursue public corruption cases. It also amends several key statutes to broaden their application in corruption contexts and to prevent corrupt public officials and their accomplices from evading or defeating prosecution based on existing legal ambiguities.

The bill provides significant and much-needed additional funding for public corruption enforcement. Since September 11, 2001, Federal Bureau of Investigation, FBI, resources have been shifted away from the pursuit of white collar crime to counterterrorism. Director Mueller has said that public corruption is among the FBI's top investigative priorities, but a September 2005 report by the Department of Justice Inspector General found that, from 2000 to 2004, there was an overall reduction in public corruption matters handled by the FBI. More recently, a study by the research group Transactional Records Access Clearinghouse found that the prosecution of all kinds of white collar crimes is down 27 percent since 2000, and official corruption cases have dropped in the same period by 14 percent. The Wall Street Journal reported in 2007 that the investigation of an elected Federal official stalled for six months because the investigating U.S. Attorney's Office could not afford to replace the prosecutor who had previously handled the case. We must reverse this trend and make sure that law enforcement has the tools and the resources it needs to confront these serious and corrosive crimes.

Efforts to combat terrorism and public corruption are not mutually exclusive. A bribed customs official who allows a terrorist to smuggle contraband into our country, or a corrupt consular officer who illegally supplies U.S. entry visas to would-be terrorists can cause grave harm to our national security.

The bill also extends the statute of limitations from 5 to 6 years for the most serious public corruption offenses. Public corruption cases are among the most difficult and time-consuming cases to investigate. Bank fraud, arson and passport fraud, among other offenses, all have 10-year statutes of limitations. Public corruption offenses cut to the heart of our democracy. This modest increase to the statute of limitations is a reasonable step to help our corruption investigators and prosecutors do their jobs.

This bill goes further by amending several key statutes to broaden their application in corruption and fraud contexts and to eliminate legal ambiguities that can hinder prosecution of serious corruption. The bill includes a fix to the gratuities statute that makes clear that public officials may not accept anything of value, other than what is permitted by existing rules and regulations, given to them because of their official position. This important provision contains appropriate safeguards to ensure that only corrupt conduct is prosecuted, but it puts teeth behind the ethical reforms the Senate adopted under the leadership of Senator Obama.

The bill also appropriately clarifies the definition of what it means for a public official to perform an ''official act'' for the purposes of the bribery statute and closes several other gaps in current law. The bill adds two corruption-related crimes as predicates for the Federal wiretap and racketeering statutes, lowers the transactional amount required for Federal prosecution of bribery involving federally-funded State programs, and expands the venue for perjury and obstruction of justice prosecutions.

Finally, the bill raises the statutory maximum penalties for several laws dealing with official misconduct, including theft of Government property and bribery. These increases reflect the serious and corrosive nature of these crimes, and would harmonize the punishment for these crimes with other similar statutes.

If we are serious about addressing the kinds of egregious misconduct that we have witnessed over the past several years in high-profile public corruption cases, Congress should enact meaningful legislation to give investigators and prosecutors the tools and resources they need to enforce our laws. Passing ethics and lobbying reform in the last Congress was a step in the right direction. Now we should finish the job by strengthening the criminal law to enable federal investigators and prosecutors to bring those who undermine the public trust to justice. I am disappointed that Republican objections prevented the full Senate from passing this critical bill early in the last Congress. I hope that this year all Senators will support this bipartisan bill and take firm action to stamp out intolerable corruption.

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

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

S. 49

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Public Corruption Prosecution Improvements Act''.

**SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.**

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

**''§ 3299A. Corruption offenses**

''Unless an indictment is returned or the information is filed against a person within 6 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—

''(1) section 201 or 666;

''(2) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;

''(3) section 1951, if the offense involves extortion under color of official right;

''(4) section 1952, to the extent that the unlawful activity involves bribery; or

''(5) section 1962, to the extent that the racketeering activity involves bribery chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official, or section 1951, if the offense involves extortion under color of official right.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3299A. Corruption offenses.''.

(c) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to any offense committed before the date of enactment of this Act.

**SEC. 3. APPLICATION OF MAIL AND WIRE FRAUD STATUTES TO LICENCES AND OTHER INTANGIBLE RIGHTS.**

Sections 1341 and 1343 of title 18, United States Code, are each amended by striking ''money or property'' and inserting ''money, property, or any other thing of value''.

**SEC. 4. VENUE FOR FEDERAL OFFENSES.**

(a) IN GENERAL.—The second undesignated paragraph of section 3237(a) of title 18, United States Code, is amended by adding before the period at the end the following: ''or in any district in which an act in furtherance of the offense is committed''.

(b) SECTION HEADING.—The heading for section 3237 of title 18, United States Code, is amended to read as follows:

**''§ 3237. Offense taking place in more than one district''.**

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 211 of title 18, United States Code, is amended so that the item relating to section 3237 reads as follows:

''3237. Offense taking place in more than one district.''.

**SEC. 5. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.**

Section 666(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by—

(A) striking ''anything of value'' and inserting ''any thing or things of value''; and

(B) striking ''of $5,000 or more'' and inserting ''of $1,000 or more'';

(2) by amending paragraph (2) to read as follows:

''(2) corruptly gives, offers, or agrees to give any thing or things of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $1,000 or more;''; and

(3) in the matter following paragraph (2), by striking ''ten years'' and inserting ''15 years''.

**SEC. 6. PENALTY FOR SECTION 641 VIOLATIONS.**

Section 641 of title 18, United States Code, is amended by striking ''ten years'' and inserting ''15 years''.

**SEC. 7. PENALTY FOR SECTION 201(b) VIOLATIONS.**

Section 201(b) of title 18, United States Code, is amended by striking ''fifteen years'' and inserting ''20 years''.

**SEC. 8. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN PUBLIC CORRUPTION RELATED OFFENSES.**

(a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—Section 602(a) of title 18, United States Code, is amended by striking ''three years'' and inserting ''10 years''.

(b) PROMISE OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 600 of title 18, United States Code, is amended by striking ''one year'' and inserting ''10 years''.

(c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 601(a) of title 18, United States Code, is amended by striking ''one year'' and inserting ''10 years''.

(d) INTIMIDATION TO SECURE POLITICAL CONTRIBUTIONS.—Section 606 of title 18, United States Code, is amended by striking ''three years'' and inserting ''10 years''.

(e) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title 18, United States Code, is amended by striking ''3 years'' and inserting ''10 years''.

(f) COERCION OF POLITICAL ACTIVITY BY FEDERAL EMPLOYEES.—Section 610 of title 18, United States Code, is amended by striking ''three years'' and inserting ''10 years''.

**SEC. 9. ADDITION OF DISTRICT OF COLUMBIA TO THEFT OF PUBLIC MONEY OFFENSE.**

Section 641 of title 18, United States Code, is amended by inserting ''the District of Columbia or'' before ''the United States'' each place that term appears.

**SEC. 10. ADDITIONAL RICO PREDICATES.**

(a) IN GENERAL.—Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting ''section 641 (relating to embezzlement or theft of public money, property, or records),'' after ''473 (relating to counterfeiting),''; and

(2) by inserting ''section 666 (relating to theft or bribery concerning programs receiving Federal funds),'' after ''section 664 (relating to embezzlement from pension and welfare funds),''.

(b) CONFORMING AMENDMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking ''section 641 (relating to public money, property, or records),''; and

(2) by striking ''section 666 (relating to theft or bribery concerning programs receiving Federal funds),''.

**SEC. 11. ADDITIONAL WIRETAP PREDICATES.**

Section 2516(1)(c) of title 18, United States Code, is amended by inserting ''section 641 (relating to embezzlement or theft of public money, property, or records), section 666 (relating to theft or bribery concerning programs receiving Federal funds),'' after ''section 224 (bribery in sporting contests),''.

**SEC. 12. CLARIFICATION OF CRIME OF ILLEGAL GRATUITIES.**

Section 201(c)(1) of title 18, United States Code, is amended—

(1) by striking the matter before subparagraph (A) and inserting ''otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation—'';

(2) in subparagraph (A), by inserting after '', or person selected to be a public official,'' the following: ''for or because of the official's or person's official position, or for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official''; and

(3) in subparagraph (B), by striking all after '', anything of value personally,'' and inserting ''for or because of the official's or person's official position, or for or because of any official act performed or to be performed by such official or person;''.

**SEC. 13. CLARIFICATION OF DEFINITION OF OFFICIAL ACT.**

Section 201(a)(3) of title 18, United States Code, is amended to read as follows:

''(3) the term 'official act' means any action within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit. An official act can be a single act, more than one act, or a course of conduct.''.

**SEC. 14. CLARIFICATION OF COURSE OF CONDUCT BRIBERY.**

Section 201 of title 18, United States Code, is amended—

(1) in subsection (b), by striking ''anything of value'' each place it appears and inserting ''any thing or things of value''; and

(2) in subsection (c), by striking ''anything of value'' each place it appears and inserting ''any thing or things of value''.

**SEC. 15. EXPANDING VENUE FOR PERJURY AND OBSTRUCTION OF JUSTICE PROCEEDINGS.**

(a) IN GENERAL.—Section 1512(i) of title 18, United States Code, is amended by striking ''A prosecution under this section or section 1503'' and inserting ''A prosecution under this chapter''.

(b) PERJURY.—

(1) IN GENERAL.—Chapter 79 of title 18, United States Code, is amended by adding at the end the following:

**''§ 1624. Venue**

''A prosecution under this chapter may be brought in the district in which the oath, declaration, certificate, verification, or statement under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 79 of title 18, United States Code, is amended by adding at the end the following:

''1624. Venue.''.

**SEC. 16. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO INVESTIGATE AND PROSECUTE PUBLIC CORRUPTION OFFENSES.**

There are authorized to be appropriated to the Offices of the Inspectors General and the Department of Justice, including the United States Attorneys' Offices, the Federal Bureau of Investigation, and the Public Integrity Section of the Criminal Division, $25,000,000 for each of the fiscal years 2009, 2010, 2011, and 2012, to increase the number of personnel to investigate and prosecute public corruption offenses including sections 201, 203 through 209, 641, 654, 666, 1001, 1341, 1343, 1346, and 1951 of title 18, United States Code.

**SEC. 17. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.**

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend its guidelines and its policy statements applicable to persons convicted of an offense under sections 201, 641, and 666 of title 18, United States Code, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by the guidelines and policy statements.

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

(1) ensure that the sentencing guidelines and policy statements reflect Congress' intent that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a), the incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for—

(A) the potential and actual harm to the public and the amount of any loss resulting from the offense;

(B) the level of sophistication and planning involved in the offense;

(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;

(E) the extent to which the offense represented an abuse of trust by the offender and was committed in a manner that undermined public confidence in the Federal, State, or local government; and

(F) whether the violation was intended to or had the effect of creating a threat to public health or safety, injury to any person or even death;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

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

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

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By Mr. INOUYE:

S. 50. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Homeland Security and Governmental Affairs.

Mr. INOUYE. Mr. President, today I introduce the Clinical Social Workers' Recognition Act to correct a continuing problem in the Federal Employees Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the nation. However, Title V of the United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers' compensation claims brought by Federal employees. The bill I am introducing corrects this problem.

It is a sad irony that Federal employees may select a clinical social worker through their health plans to provide mental health services, but may not go to this same professional for workers' compensation evaluations. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits Federal employees' selection of a provider to conduct the workers' compensation mental health evaluations. Lack of this recognition may well impose an undue burden on federal employees where clinical social workers are the only available providers of mental health care.

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

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

S. 50

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Clinical Social Workers' Recognition Act of 2009''.

**SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.**

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2), by striking ''and osteopathic practitioners'' and inserting ''osteopathic practitioners, and clinical social workers''; and

(2) in paragraph (3), by striking ''osteopathic practitioners'' and inserting ''osteopathic practitioners, clinical social workers,''.

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By Mr. INOUYE:

S. 51. A bill to amend title 10, United States Code, to recognize the United States Military Cancer Institute as an establishment within the Uniformed Services University of the Health Sciences, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups for cancer prevention and early detection efforts, and for other purposes; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today, I am, again, introducing the United States Military Cancer Institute Research Collaborative Act. This legislation, twice passed by the Senate yet unsuccessful in the House, would formally establish the United States Military Cancer Institute, USMCI, and support the collaborative augmentation of research efforts in cancer epidemiology, prevention and control. Although the USMCI already exists as an informal collaborative effort, this bill will formally establish the institution with a mission of providing for the maintenance of health in the military by enhancing cancer research and treatment, and studying the epidemiological causes of cancer among various ethnic groups. By formally establishing the USMCI, it will be in a better position to unite military research efforts with other cancer research centers.

Cancer prevention, early detection, and treatment are significant issues for the military population, thus the USMCI was organized to coordinate the existing military cancer assets. The USMCI has a comprehensive database of its beneficiary population of 9 million people. The military's nationwide tumor registry, the Automated Central Tumor Registry, has acquired more than 180,000 cases in the last 14 years, and a serum repository of 30 million specimens from military personnel collected sequentially since 1987. This population is predominantly Caucasian, African-American, and Hispanic.

The USMCI currently resides in the Washington, D.C., area, and its components are located at the National Naval Medical Center, the Malcolm Grow Medical Center, the Armed Forces Institute of Pathology, and the Armed Forces Radiobiology Research Institute. There are more than 70 research workers, both active duty and Department of Defense civilian scientists, working in the USMCI.

The Director of the USMCI, Dr. John Potter, intends to expand research activities to military medical centers across the nation. Special emphasis will be placed on the study of genetic and environmental factors in carcinogenesis among the entire population, including Asian, Caucasian, African-American and Hispanic subpopulations.

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

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

S. 51

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

**SECTION 1. THE UNITED STATES MILITARY CANCER INSTITUTE.**

(a) ESTABLISHMENT.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

**''§ 2118. United States Military Cancer Institute**

''(a) ESTABLISHMENT.—(1) There is a United States Military Cancer Institute in the University. The Director of the United States Military Cancer Institute is the head of the Institute.

''(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

''(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

''(b) RESEARCH.—(1) The Director of the United States Military Cancer Institute shall carry out research studies on the following:

''(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

''(B) The prevention and early detection of cancer.

''(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

''(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

''(c) COLLABORATIVE RESEARCH.—The Director of the United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

''(d) ANNUAL REPORT.—(1) Promptly after the end of each fiscal year, the Director of the United States Military Cancer Institute shall submit to the President of the University a report on the results of the research studies carried out under subsection (b).

''(2) Not later than 60 days after receiving the annual report under paragraph (1), the President of the University shall transmit such report to the Secretary of Defense and to Congress.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 104 of such title is amended by adding at the end the following new item:

''2118. United States Military Cancer Institute.''.

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By Mr. INOUYE:

S. 52. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a Federally qualified health

center or a Native Hawaiian health care system; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am reintroducing the Native Hawaiian Medicaid Coverage Act. This legislation would authorize a Federal Medicaid Assistance Percent, FMAP, of 100 percent for the payment of health care costs of Native Hawaiians who receive health care from Federally Qualified Health Centers or the Native Hawaiian Health Care System.

This bill is modeled on the Native Alaskan Health Care Act, which provides for a Federal Medicaid Assistance Percent of 100 percent for payment of health care costs for Native Alaskans by the Indian Health Service, an Indian tribe, or a tribal organization.

Community health centers serve as the ''safety net'' for uninsured and medically underserved Native Hawaiians and other United States citizens, providing comprehensive primary and preventive health services to the entire community. Outpatient services offered to the entire family include comprehensive primary care, preventive health maintenance, and education outreach in the local community. Community health centers, with their multidisciplinary approach, offer cost effective integration of health promotion and wellness with chronic disease management and primary care focused on serving vulnerable populations.

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

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

S. 52

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Native Hawaiian Medicaid Coverage Act of 2009''.

**SEC. 2. 100 PERCENT FMAP FOR MEDICAL ASSISTANCE PROVIDED TO A NATIVE HAWAIIAN THROUGH A FEDERALLY-QUALIFIED HEALTH CENTER OR A NATIVE HAWAIIAN HEALTH CARE SYSTEM UNDER THE MEDICAID PROGRAM.**

(a) MEDICAID.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by inserting '', and with respect to medical assistance provided to a Native Hawaiian (as defined in section 12 of the Native Hawaiian Health Care Improvement Act) through a Federally-qualified health center or a Native Hawaiian health care system (as so defined) whether directly, by referral, or under contract or other arrangement between a Federally-qualified health center or a Native Hawaiian health care system and another health care provider'' before the period.

(b) EFFECTIVE DATE.—The amendment made by this section applies to medical assistance provided on or after the date of enactment of this Act.

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By Mr. INOUYE:

S. 53. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicaid programs; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am, again, introducing the Nursing School Clinics Act. This measure builds on our concerted efforts to provide access to quality health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of student training and education by providing firsthand clinical experience in primary care facilities.

Primary care clinics administered by nursing schools are university of nonprofit primary care centers developed mainly in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by college of nursing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners. To date, the comprehensive models of care provided by nursing clinics have yielded excellent results, including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care.

The bill reinforces the principle of combining health care delivery in underserved areas with the education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the financial incentives for clinic operators to establish the clinics.

In order to meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we must consider a wide range of proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of health care delivery. The Nursing School Clinics Act recognizes the central role nurses can perform as care givers to the medically underserved.

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

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

S. 53

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Nursing School Clinics Act of 2009''.

**SEC. 2. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.**

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (27), by striking ''and'' at the end;

(2) by redesignating paragraph (28) as paragraph (29); and

(3) by inserting after paragraph (27), the following new paragraph:

''(28) nursing school clinic services (as defined in subsection (y)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and''.

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

''(y) The term 'nursing school clinic services' means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse.''.

(c) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''and (28)'' after ''(24)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

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By Mr. INOUYE:

S. 54. A bill to amend title XVIII of the Social Security Act to provide for patient protection by establishing minimum nurse staffing ratios at certain Medicare providers, and for other purposes; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am, again, reintroducing the Registered Nurse Safe Staffing Act. For over four decades I have been a committed supporter of nurses and the delivery of safe patient care. While enforceable regulations will help to ensure patient safety, the complexity and variability of today's hospitals require that staffing patters be determined at the hospital and unit level, with the professional input of registered nurses. More than a decade of research demonstrates that nurse staff levels and the skill mix of nursing staff directly affect the clinical outcomes of hospitalized patients. Studies show that when there are more registered nurses, there are lower mortality rates, shorter lengths of stay, reduced costs, and fewer complications.

A study published in the Journal of the American Medical Association found that the risks of patient mortality rose by 7 percent for every additional patient added to the average nurse's workload. In the midst of a nursing shortage and increasing financial pressures, hospitals often find it difficult to maintain adequate staffing.

While nursing research indicates that adequate registered nurse staffing is vital to the health and safety of patients, there is no standardized public reporting mechanism, nor enforcement of adequate staffing plans. The only regulations addressing nursing staff exists vaguely in Medicare Conditions of Participation which states: ''The nursing service must have an adequate number of licensed registered nurses, licensed practice, vocational, nurses, and other personnel to provide nursing care to all patients as needed''.

This bill will require Medicare Participating Hospitals to develop and maintain reliable and valid systems to determine sufficient registered nurse staffing. Given the demands that the healthcare industry faces today, it is our responsibility to ensure that patients have access to adequate nursing care. However, we must ensure that the decisions by which care is provided are made by the clinical experts, the registered nurses caring for these patients. Support of this bill supports our Nation's nurses during a critical shortage, but more importantly, works to ensure the safety of their patients.

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

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

S. 54

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Registered Nurse Safe Staffing Act of 2009''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) There are hospitals throughout the United States that have inadequate staffing of registered nurses to protect the well-being and health of the patients.

(2) Studies show that the health of patients in hospitals is directly proportionate to the number of registered nurses working in the hospital.

(3) There is a critical shortage of registered nurses in the United States.

(4) The effect of that shortage is revealed in unsafe staffing levels in hospitals.

(5) Patient safety is adversely affected by these unsafe staffing levels, creating a public health crisis.

(6) Registered nurses are being required to perform professional services under conditions that do not support quality health care or a healthful work environment for registered nurses.

(7) As a payer for inpatient and outpatient hospital services for individuals entitled to benefits under the Medicare program established under title XVIII of the Social Security Act, the Federal Government has a compelling interest in promoting the safety of such individuals by requiring any hospital participating in such program to establish minimum safe staffing levels for registered nurses.

**SEC. 3. ESTABLISHMENT OF MINIMUM STAFFING RATIOS BY MEDICARE PARTICIPATING HOSPITALS.**

(a) REQUIREMENT OF MEDICARE PROVIDER AGREEMENT.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (U), by striking ''and'' at the end;

(2) in subparagraph (V), by striking the period at the end and inserting '', and''; and

(3) by inserting after subparagraph (V) the following new subparagraph:

''(W) in the case of a hospital, to meet the requirements of section 1899.''.

(b) REQUIREMENTS.—Title XVIII of the Social Security Act is amended by inserting after section 1889 the following new section:

''STAFFING REQUIREMENTS FOR MEDICARE PARTICIPATING HOSPITALS

''SEC. 1899. (a) ESTABLISHMENT OF STAFFING SYSTEM.—

''(1) IN GENERAL.—Each participating hospital shall adopt and implement a staffing system that ensures a number of registered nurses on each shift and in each unit of the hospital to ensure appropriate staffing levels for patient care.

''(2) STAFFING SYSTEM REQUIREMENTS.—Subject to paragraph (3), a staffing system adopted and implemented under this section shall—

''(A) be based upon input from the direct care-giving registered nurse staff or their exclusive representatives, as well as the chief nurse executive;

''(B) be based upon the number of patients and the level and variability of intensity of care to be provided, with appropriate consideration given to admissions, discharges, and transfers during each shift;

''(C) account for contextual issues affecting staffing and the delivery of care, including architecture and geography of the environment and available technology;

''(D) reflect the level of preparation and experience of those providing care;

''(E) account for staffing level effectiveness or deficiencies in related health care classifications, including but not limited to, certified nurse assistants, licensed vocational nurses, licensed psychiatric technicians, nursing assistants, aides, and orderlies;

''(F) reflect staffing levels recommended by specialty nursing organizations;

''(G) establish upwardly adjustable registered nurse-to-patient ratios based upon registered nurses' assessment of patient acuity and existing conditions;

''(H) provide that a registered nurse shall not be assigned to work in a particular unit without first having established the ability to provide professional care in such unit; and

''(I) be based on methods that assure validity and reliability.

''(3) LIMITATION.—A staffing system adopted and implemented under paragraph (1) may not—

''(A) set registered-nurse levels below those required by any Federal or State law or regulation; or

''(B) utilize any minimum registered nurse-to-patient ratio established pursuant to paragraph (2)(G) as an upper limit on the staffing of the hospital to which such ratio applies.

''(b) REPORTING, AND RELEASE TO PUBLIC, OF CERTAIN STAFFING INFORMATION.—

''(1) REQUIREMENTS FOR HOSPITALS.—Each participating hospital shall—

''(A) post daily for each shift, in a clearly visible place, a document that specifies in a uniform manner (as prescribed by the Secretary) the current number of licensed and unlicensed nursing staff directly responsible for patient care in each unit of the hospital, identifying specifically the number of registered nurses;

''(B) upon request, make available to the public—

''(i) the nursing staff information described in subparagraph (A); and

''(ii) a detailed written description of the staffing system established by the hospital pursuant to subsection (a); and

''(C) submit to the Secretary in a uniform manner (as prescribed by the Secretary) the nursing staff information described in subparagraph (A) through electronic data submission not less frequently than quarterly.

''(2) SECRETARIAL RESPONSIBILITIES.—The Secretary shall—

''(A) make the information submitted pursuant to paragraph (1)(C) publicly available, including by publication of such information on the Internet website of the Department of Health and Human Services; and

''(B) provide for the auditing of such information for accuracy as a part of the process of determining whether an institution is a hospital for purposes of this title.

''(c) RECORDKEEPING; DATA COLLECTION; EVALUATION.—

''(1) RECORDKEEPING.—Each participating hospital shall maintain for a period of at least 3 years (or, if longer, until the conclusion of pending enforcement activities) such records as the Secretary deems necessary to determine whether the hospital has adopted and implemented a staffing system pursuant to subsection (a).

''(2) DATA COLLECTION ON CERTAIN OUTCOMES.—The Secretary shall require the collection, maintenance, and submission of data by each participating hospital sufficient to establish the link between the staffing system established pursuant to subsection (a) and—

''(A) patient acuity from maintenance of acuity data through entries on patients' charts;

''(B) patient outcomes that are nursing sensitive, such as patient falls, adverse drug events, injuries to patients, skin breakdown, pneumonia, infection rates, upper gastrointestinal bleeding, shock, cardiac arrest, length of stay, and patient readmissions;

''(C) operational outcomes, such as work-related injury or illness, vacancy and turnover rates, nursing care hours per patient day, on-call use, overtime rates, and needlestick injuries; and

''(D) patient complaints related to staffing levels.

''(3) EVALUATION.—Each participating hospital shall annually evaluate its staffing system and establish minimum registered nurse staffing ratios to assure ongoing reliability and validity of the system and ratios. The evaluation shall be conducted by a joint management-staff committee comprised of at least 50 percent of registered nurses who provide direct patient care.

''(d) ENFORCEMENT.—

''(1) RESPONSIBILITY.—The Secretary shall enforce the requirements and prohibitions of this section in accordance with the succeeding provisions of this subsection.

''(2) PROCEDURES FOR RECEIVING AND INVESTIGATING COMPLAINTS.—The Secretary shall establish procedures under which—

''(A) any person may file a complaint that a participating hospital has violated a requirement or a prohibition of this section; and

''(B) such complaints are investigated by the Secretary.

''(3) REMEDIES.—If the Secretary determines that a participating hospital has violated a requirement of this section, the Secretary—

''(A) shall require the facility to establish a corrective action plan to prevent the recurrence of such violation; and

''(B) may impose civil money penalties under paragraph (4).

''(4) CIVIL MONEY PENALTIES.—

''(A) IN GENERAL.—In addition to any other penalties prescribed by law, the Secretary may impose a civil money penalty of not more than $10,000 for each knowing violation of a requirement of this section, except that the Secretary shall impose a civil money

penalty of more than $10,000 for each such violation in the case of a participating hospital that the Secretary determines has a pattern or practice of such violations (with the amount of such additional penalties being determined in accordance with a schedule or methodology specified in regulations).

''(B) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

''(C) PUBLIC NOTICE OF VIOLATIONS.—

''(i) INTERNET WEBSITE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services the names of participating hospitals on which civil money penalties have been imposed under this section, the violation for which the penalty was imposed, and such additional information as the Secretary determines appropriate.

''(ii) CHANGE OF OWNERSHIP.—With respect to a participating hospital that had a change in ownership, as determined by the Secretary, penalties imposed on the hospital while under previous ownership shall no longer be published by the Secretary of such Internet website after the 1-year period beginning on the date of change in ownership.

''(e) WHISTLEBLOWER PROTECTIONS.—

''(1) PROHIBITION OF DISCRIMINATION AND RETALIATION.—A participating hospital shall not discriminate or retaliate in any manner against any patient or employee of the hospital because that patient or employee, or any other person, has presented a grievance or complaint, or has initiated or cooperated in any investigation or proceeding of any kind, relating to the staffing system or other requirements and prohibitions of this section.

''(2) RELIEF FOR PREVAILING EMPLOYEES.—An employee of a participating hospital who has been discriminated or retaliated against in employment in violation of this subsection may initiate judicial action in a United States district court and shall be entitled to reinstatement, reimbursement for lost wages, and work benefits caused by the unlawful acts of the employing hospital. Prevailing employees are entitled to reasonable attorney's fees and costs associated with pursuing the case.

''(3) RELIEF FOR PREVAILING PATIENTS.—A patient who has been discriminated or retaliated against in violation of this subsection may initiate judicial action in a United States district court. A prevailing patient shall be entitled to liquidated damages of $5,000 for a violation of this statute in addition to any other damages under other applicable statutes, regulations, or common law. Prevailing patients are entitled to reasonable attorney's fees and costs associated with pursuing the case.

''(4) LIMITATION ON ACTIONS.—No action may be brought under paragraph (2) or (3) more than 2 years after the discrimination or retaliation with respect to which the action is brought.

''(5) TREATMENT OF ADVERSE EMPLOYMENT ACTIONS.—For purposes of this subsection—

''(A) an adverse employment action shall be treated as retaliation or discrimination; and

''(B) the term 'adverse employment action' includes—

''(i) the failure to promote an individual or provide any other employment-related benefit for which the individual would otherwise be eligible;

''(ii) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual; and

''(iii) a personnel action that is adverse to the individual concerned.

''(f) RELATIONSHIP TO STATE LAWS.—Nothing in this section shall be construed as exempting or relieving any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful practice under this title.

''(g) RELATIONSHIP TO CONDUCT PROHIBITED UNDER THE NATIONAL LABOR RELATIONS ACT OR OTHER COLLECTIVE BARGAINING LAWS.—Nothing in this section shall be construed as permitting conduct prohibited under the National Labor Relations Act or under any other Federal, State, or local collective bargaining law.

''(h) REGULATIONS.—The Secretary shall promulgate such regulations as are appropriate and necessary to implement this section.

''(i) DEFINITIONS.—In this section:

''(1) PARTICIPATING HOSPITAL.—The term 'participating hospital' means a hospital that has entered into a provider agreement under section 1866.

''(2) REGISTERED NURSE.—The term 'registered nurse' means an individual who has been granted a license to practice as a registered nurse in at least 1 State.

''(3) UNIT.—The term 'unit' of a hospital is an organizational department or separate geographic area of a hospital, such as a burn unit, a labor and delivery room, a post-anesthesia service area, an emergency department, an operating room, a pediatric unit, a stepdown or intermediate care unit, a specialty care unit, a telemetry unit, a general medical care unit, a subacute care unit, and a transitional inpatient care unit.

''(4) SHIFT.—The term 'shift' means a scheduled set of hours or duty period to be worked at a participating hospital.

''(5) PERSON.—The term 'person' means 1 or more individuals, associations, corporations, unincorporated organizations, or labor unions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010.

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By Mr. INOUYE:

S. 55. A bill to amend the XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the Medicare program; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am, again, introducing legislation to amend title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. These three proposed changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are a covered Medicare expense, just as these services are covered for other mental health professionals in Medicare. Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider network. They are legally regulated in every state of the nation and are recognized as independent providers of mental health care throughout the health care system. It is time to correct the disparate reimbursement treatment of this profession under Medicare.

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

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

S. 55

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Equity for Clinical Social Workers Act of 2009''.

**SEC. 2. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.**

(a) IN GENERAL.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395l(a)(1)(F)(ii)) is amended to read as follows: ''(ii) the amount determined by a fee schedule established by the Secretary,''.

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking ''services performed by a clinical social worker (as defined in paragraph (1))'' and inserting ''such services and such services and supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))''.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking ''and services'' and inserting ''clinical social worker services, and services''.

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended—

(1) by striking ''and services'' and inserting ''clinical social worker services, and services''; and

(2) by adding ''and'' at the end.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2010.

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By Mr. INOUYE:

S. 56. A bill to amend the XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I again introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not

allow them to function to the full extent of their State practice licenses. Those who need the services of outpatient rehabilitation facilities should have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services under the Federal Employee Health Benefits Program, the TRICARE Military Health Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans. This legislation will ensure that these qualified professionals achieve the same recognition under the Medicare comprehensive outpatient rehabilitation facility program.

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

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

S. 56

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Autonomy for Psychologists and Social Workers Act of 2009''.

**SEC. 2. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.**

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by striking ''physician'' and inserting ''physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law and except that a patient receiving clinical social worker services (as defined in subsection (hh)(2)) may be under the care of a clinical social worker with respect to such services to the extent permitted under State law''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2010.

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By Mr. INOUYE:

S. 57. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, today, I am reintroducing legislation to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral program. Psychologists have made a unique contribution in reaching out to the Nation's medically underserved populations. Expertise in behavioral science is useful in addressing grave concerns such as violence, addiction, mental illness, adolescent and child behavioral disorders, and family disruption. Establishment of a psychology post-doctoral program could be an effective way to find solutions to these issues.

Similar programs supporting additional, specialized training in traditionally underserved settings have been successful in retaining participants to serve the same populations. For example, mental health professionals who have participated in these specialized federally funded programs have tended not only to meet their repayment obligations, but have continued to work in the public sector or with the underserved.

While a doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, specialized post-doctoral fellowship programs help to develop particular diagnostic and treatment skills required to respond effectively to underserved populations. For example, what appears to be poor academic motivation in a child recently relocated from Southeast Asia might actually reflect a cultural value of reserve rather than a disinterest in academic learning. Specialized assessment skills enable the clinician to initiate effective treatment.

Domestic violence poses a significant public health problem and is not just a problem for the criminal justice system. Violence against women results in thousands of hospitalizations a year. Rates of child and spouse abuse in rural areas are particularly high, as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of the rural populations could be of special benefit in addressing these problems.

Given the demonstrated success and effectiveness of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowships that respond to the needs of the Nation's underserved.

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

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

S. 57

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Psychologists in the Service of the Public Act of 2009''.

**SEC. 2. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.**

Part C of title VII of the Public Health Service Act (42 U.S.C. 293k et seq.) is amended by adding at the end the following:

**''SEC. 749. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.**

''(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

''(b) ELIGIBLE ENTITIES.—

''(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

''(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

''(B) will provide services to a medically underserved population during the period of such grant;

''(C) will comply with the provisions of subsection (c); and

''(D) will provide any other information or assurances as the Secretary determines appropriate.

''(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

''(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

''(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (1);

''(C) will not use more than 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

''(D) will provide any other information or assurances as the Secretary determines appropriate.

''(c) CONTINUED PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for not less than 1 year after the term of the grant or fellowship has expired.

''(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' and 'medically underserved populations'.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 2010 through 2012.''.

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By Mr. INOUYE:

S. 58. A bill to amend the Internal Revenue Code of 1986 to modify the application of the tonnage tax on vessels operating in the dual United States domestic and foreign trades, and for other purposes; to the Committee on Finance.

Mr. INOUYE. Mr. Presdient, foreign registered ships now carry 97 percent of the imports and exports moving in United States international trade. These foreign vessels are held to lower standards than United States registered ships, and are virtually untaxed. Their costs of operation are, therefore, lower than United States ship operating costs, which explains their 97 percent market share.

Three years ago, in order to help level the playing field for United States-flag ships that compete in international trade, Congress enacted, under the American Jobs Creation Act

of 2004, Public Law 108–357, Subchapter R, a ''tonnage tax'' that is based on the tonnage of a vessel, rather than taxing international income at a 35 percent corporate income tax rate. However, during the House and Senate conference, language was included, which states that a United States vessel cannot use the tonnage tax on international income if that vessel also operates in United States domestic commerce for more than 30 days per year.

This 30-day limitation dramatically limits the availability of the tonnage tax for those United States ships that operate in both domestic and international trade and, accordingly, severely hinders their competitiveness in foreign commerce. It is important to recognize that ships operating in United States domestic trade already have significant cost disadvantages. Specifically, (1) they are built in higher priced United States shipyards; (2) do not receive Maritime Security Payments, even when operated in international trade; and (3) are owned by United States-based American corporations. The inability of these domestic operators to use the tonnage tax for their international service is a further, unnecessary burden on their competitive position in foreign commerce.

When windows of opportunity present themselves in international trade, American tax policy and maritime policy should facilitate the participation of these American-built ships. Instead, the 30-day limit makes them ineligible to use the tonnage tax, and further handicaps American vessels when competing for international cargo. Denying the tonnage tax to coastwise qualified ships further stymies the operation of American built ships in international commerce, and further exacerbates America's 97 percent reliance on foreign ships to carry its international cargo.

These concerns were of sufficient importance that in December 2006 Congress repealed the 30-day limit on domestic trading but only for approximately 50 ships operating in the Great Lakes. These ships primarily operate in domestic trade on the Great Lakes, but also carry cargo between the United States and Canada in international trade (Section 415 of P.L. 109–432, the Tax Relief and Health Care Act of 2006.)

The identifiable universe of remaining ships other than the Great Lakes ships that operate in domestic trade, but that may also operate temporarily in international trade, totals 13 United States flag vessels. These 13 ships normally operate in domestic trades that involve Washington, Oregon, California, Hawaii, Alaska, Florida, Mississippi, and Louisiana. In the interest of providing equity to the United States corporations that own and operate these 13 vessels, my bill would repeal the tonnage tax 30-day limit on domestic operations and enable these vessels to utilize the tonnage tax on their international income—so they receive the same treatment as other United States flag international operators. I stress that, under my bill, these ships will continue to pay the normal 35 percent United States corporate tax rate on their domestic income.

Repeal of the tonnage tax's 30-day limit on domestic operations is a necessary step toward providing tax equity between United States flag and foreign flag vessels. I strongly urge the tax committees of the Congress to give this legislation their expedited consideration and approval.

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

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

S. 58

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

**SECTION 1. MODIFICATION OF THE APPLICATION OF THE TONNAGE TAX ON VESSELS OPERATING IN THE DUAL UNITED STATES DOMESTIC AND FOREIGN TRADES.**

(a) IN GENERAL.—Subsection (f) of section 1355 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended to read as follows:

''(f) EFFECT OF OPERATING A QUALIFYING VESSEL IN THE DUAL UNITED STATES DOMESTIC AND FOREIGN TRADES.—For purposes of this subchapter—

''(1) an electing corporation shall be treated as continuing to use a qualifying vessel in the United States foreign trade during any period of use in the United States domestic trade, and

''(2) gross income from such United States domestic trade shall not be excluded under section 1357(a), but shall not be taken into account for purposes of section 1353(b)(1)(B) or for purposes of section 1356 in connection with the application of section 1357 or 1358.''.

(b) REGULATORY AUTHORITY FOR ALLOCATION OF CREDITS, INCOME, AND DEDUCTIONS.—Section 1358 of the Internal Revenue Code of 1986 (relating to allocation of credits, income, and deductions) is amended—

(1) by striking ''in accordance with this subsection'' in subsection (c) and inserting ''to the extent provided in such regulations as may be prescribed by the Secretary'', and

(2) by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe regulations consistent with the provisions of this subchapter for the purpose of allocating gross income, deductions, and credits between or among qualifying shipping activities and other activities of a taxpayer.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1355(a)(4) of the Internal Revenue Code of 1986 is amended by striking ''exclusively''.

(2) Section 1355(b)(1)(B) of such Code is amended by striking ''as a qualifying vessel'' and inserting ''in the transportation of goods or passengers''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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By Mr. INOUYE:

S. 59. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise again today to reintroduce legislation to modify Title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much-needed infusion of behavioral science expertise into our community of public health providers. There is a growing recognition of the valuable contribution being made by psychologists toward solving some of our Nation's most distressing problems.

The participation of students from all backgrounds and clinical disciplines is vital to the success of health care training. The Title VII programs plays a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists have an advantage in the provision of critical services to minority populations because often they can communicate with clients in their own language and cultural framework. Minority therapists are more likely to work in community settings where ethnic minority and economically disadvantaged individuals are most likely to seek care. It is critical that continued support be provided for the training of individuals who provide health care services to underserved communities.

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

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

S. 59

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Strengthen the Public Health Service Act''.

**SEC. 2. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.**

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 292q) is amended—

(1) in subsection (a), by inserting '', or any public or nonprofit school that offers a graduate program in professional psychology'' after ''veterinary medicine'';

(2) in subsection (b)(4), by inserting '', or to a graduate degree in professional psychology'' after ''or doctor of veterinary medicine or an equivalent degree''; and

(3) in subsection (c)(1), by inserting '', or schools that offer graduate programs in professional psychology'' after ''veterinary medicine''.

(b) LOAN PROVISIONS.—Section 722 of the Public Health Service Act (42 U.S.C. 292r) is amended—

(1) in subsection (b)(1), by inserting '', or to a graduate degree in professional psychology'' after ''or doctor of veterinary medicine or an equivalent degree'';

(2) in subsection (c), in the matter preceding paragraph (1), by inserting '', or at a school that offers a graduate program in professional psychology'' after ''veterinary medicine''; and

(3) in subsection (k)—

(A) in the matter preceding paragraph (1), by striking ''or podiatry'' and inserting ''podiatry, or professional psychology''; and

(B) in paragraph (4), by striking ''or podiatric medicine'' and inserting ''podiatric medicine, or professional psychology''.

**SEC. 3. GENERAL PROVISIONS.**

(a) HEALTH PROFESSIONS DATA.—Section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)) is amended by striking ''clinical'' and inserting ''professional''.

(b) PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX.—Section 794 of the Public Health Service Act (42 U.S.C. 295m) is amended in the matter preceding paragraph (1) by striking ''clinical'' and inserting ''professional''.

(c) DEFINITIONS.—Section 799B(1)(B) of the Public Health Service Act (42 U.S.C. 295p(1)(B)) is amended by striking ''clinical'' each place the term appears and inserting ''professional''.

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By Mrs. FEINSTEIN (for herself, Mr. SCHUMER, Ms. SNOWE, and Mrs. BOXER):

S. 60. A bill to prohibit the sale and counterfeiting of Presidential inaugural tickets; to the Committee on Rules and Administration.

Mrs. FEINSTEIN. Mr. President, I am pleased to join Senators SCHUMER, SNOWE, and BOXER in introducing legislation to prohibit the selling and counterfeiting of tickets to the Presidential inaugural ceremony.

The inauguration of the President of the United States is one of the most important rituals of our democracy, and the chance to witness this solemn event should not be bought and sold similar to tickets to a sporting event.

This is a dignified and critical moment of transition in Government, a moment of which Americans have always been justifiably proud. It is, in fact, the major symbol of the real strength of our democracy—the peaceful transition from one elected President to the next.

Tickets to the official Presidential inaugural ceremony are supposed to be free for the people: for the volunteers who gave up their weekends, walking miles door to door to encourage voters to turn out at the polls on election day, for members of the African-American community to see one of their own take the oath of office for the highest office in the land, for schoolchildren to witness history, and for the American public to watch this affirmation of our Constitution, this peaceful transition from one administration to another.

This is going to be the major civic event of our time. Excitement is at an all time high, and every one of us has received more phone calls for tickets than we could possibly ever meet. People are desperate to become part of it, to touch it, to be around, to feel it, to listen to it, and they are coming from all over the country. We could have more than 1.5 million people descend on the Nation's Capital for this inauguration.

Before I introduced a similar bill at the end of the last Congress, tickets to the Presidential inaugural were being offered for sale on the Internet for $5,000 apiece, with some going as high as $40,000 each. To their credit, some Internet websites voluntarily agreed to refuse to sell these tickets online. I want to thank and commend Craigslist, eBay, and StubHub for leading the way on this issue.

However, it is clear that relying on voluntary industry compliance to prevent the sale of these tickets is simply not enough. Today, some Internet sites are still offering these tickets for sale at prices up to $750 per ticket.

Let me be clear—these are free tickets that have not yet been distributed by congressional and Presidential transition offices. These unscrupulous websites who continue to offer these tickets for sale do not have any tickets to offer for sale.

These tickets are supposed to be free for the people. Once more, these tickets are not yet even available. They will not be distributed to congressional offices until the end of the week before the inauguration. Even then the offices will require in-person pickup, with secure identification. But they will be free and they should stay that way.

We are asking people to pick up their tickets the day before the inauguration in my office. Everyone will submit their name, their address, and their driver's license. They will have to verify they are the actual person who has tickets waiting for them. I believe this kind of procedure deters unscrupulous people from selling these tickets on the Internet. No websites or other ticket outlets have inaugural swearing-in tickets to sell, despite what some of them claim.

Congress has the responsibility of overseeing this historic event. This bill will ensure that these tickets are not sold to the highest bidder, and that the inauguration has all the respect and dignity it deserves.

This legislation is aimed at stopping those who seek to profit by selling these tickets. It would also target those who seek to dupe the public with fraudulent or counterfeit tickets or those who merely promise but can't deliver on tickets that they do not actually have.

Those who violate the law under this legislation would face a class A misdemeanor with a substantial fine, imprisonment of up to 1 year, or both.

The bill also exempts official Presidential Inaugural Committees, and there is good reason for this. Presidential Inaugural Committees are used to organize and fund the public inaugural ceremonies. Donations made in return for inaugural tickets have long been used by both political parts to fund the Presidential inaugural festivities.

Unlike unscrupulous websites and ticket scalpers, there is no ''profit'' made by Presidential Inaugural Committees in giving these tickets to people in return for inaugural donations. This exemption will allow both parties to raise the needed funds to put on Presidential inaugurals in the future.

It is my hope that Congress will pass this legislation quickly, before President-elect Obama's inauguration on January 20th. I think it is very important to establish once and for all that tickets to the inauguration of the next President of the United States are not issues of commerce, but rather free tickets to be given to the people.

So I hope that this week this legislation can pass unanimously on a hotline by this body.

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

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

S. 60

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

**SECTION 1. PROHIBITION ON SALE AND COUNTERFEITING OF INAUGURAL TICKETS.**

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following

**''§ 515. Prohibition on sale and counterfeiting of inaugural tickets**

''(a) IN GENERAL.—It shall be unlawful for any person to—

''(1) except as provided in subsection (b), knowingly and willfully sell for money or property, or facilitate the sale for money or property of, a ticket to a Presidential inaugural ceremony;

''(2) with the intent to defraud, falsely make, forge, counterfeit, or falsely alter a ticket to a Presidential inaugural ceremony; or

''(3) with the intent to defraud, use, unlawfully possess, or exhibit a ticket to a Presidential inaugural ceremony, knowing the ticket to be falsely made, forged, counterfeited, or falsely altered.

''(b) EXCEPTION.—This section shall not apply to the sale for money or property, facilitation of such a sale, or attempt of such a sale, of a ticket to a Presidential inaugural ceremony—

''(1) that occurs after the date on which the Presidential inaugural ceremony for which the ticket was issued occurs; or

''(2) by an official presidential inaugural committee established on behalf of a President elect of the United States.

''(c) PENALTY.—Whoever violates subsection (a) shall be fined under this title, imprisoned not more than 1 year, or both.

''(d) DEFINITION.—In this section, the term 'Presidential inaugural ceremony' means a public inaugural ceremony at which the President elect or the Vice President elect take the oath or affirmation of office for the office of President of the United States or the office of Vice President of the United States, respectively.''.

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by inserting at the end the following:

''515. Prohibition on sale and counterfeiting of inaugural tickets.''.

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By Mr. DURBIN (for himself, Mrs. BOXER, Mrs. FEINSTEIN, Mr. HARKIN, Mr. SCHUMER, and Mr. WHITEHOUSE):

S. 61. A bill to amend title 11 of the United States Code with respect to modification of certain mortgages on principal residences, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, as the 111th Congress begins, the most important item on our agenda is to help end the worst economic crisis America has faced since the Great Depression.

I look forward to working with my colleagues in the Senate to develop and approve an economic turnaround package as quickly as possible.

But even if Congress authorizes as much as $1 trillion in new Government spending over the next 2 years to stimulate the economy, if we don't address the origins of this crisis, I fear the impact of any recovery package will be dampened.

This economic crisis began with the bubble that burst in the housing market. So we have to address that, first and foremost. Families need to be able to stay in their homes, and communities need to be stabilized before the economy can start to grow again.

That's why, as my first bill in the new Congress, I am reintroducing the Helping Families Save Their Homes in Bankruptcy Act.

When I first began working on this bill almost two years ago, the Center for Responsible Lending, Credit Suisse, and others estimated that 2 million homes were at risk of foreclosure.

The Mortgage Bankers Association and the rest of the mortgage industry scoffed at such a number.

Last month, Credit Suisse estimated that 8.1 million homes are likely to be lost to foreclosure by 2012. If the economy continues to worsen, they believe foreclosures will exceed 10 million homes.

If over 8 million families—representing 16 percent of all mortgages—are losing their homes, our economy is not going to recover.

I first introduced this bill in September of 2007. I have chaired three hearings on the subject and tried three times to pass this legislation last year.

A large coalition supports this bill—including the AARP, the Consumer Federation of America, the Leadership Conference on Civil Rights, the AFL-CIO, the Center for Responsible Lending, the National Association of Consumer Bankruptcy Attorneys, and many others. But the Mortgage Bankers Association and the rest of the mortgage industry have successfully opposed it so far.

Three things have fundamentally changed, and I am back, pressing even harder that we make this bill law.

First, the banks that brought us the reckless lending, dense securitization, and risky investing practices that created the boom and bust in the housing market have now happily accepted a $700 billion handout from the American taxpayers . . . even as most of them refuse to help the homeowners who are suffering most acutely from their irresponsible business practices. Frankly, I think that the credibility of the opposition to my bill has slipped just a bit.

Second, it is painfully clear that foreclosure mitigation efforts to date have failed. Professor Alan White of the Valparaiso School of Law analyzed a large sample of the mortgage modifications made voluntarily by the industry-led Hope Now Alliance. He found that almost half of these so-called foreclosure prevention plans actually increased the monthly payments of homeowners. How does that help families save their homes?

Third, America soon will have a President who understands the enormity of this problem and supports this change to the bankruptcy code.

So what does this bill do? This bill would allow mortgages on primary residences to be modified in bankruptcy just like other debts—including vacation homes, family farms, and yachts.

Only families living in the home would qualify—no speculators are allowed.

The bill would allow judges to cut through all of the constraints that have doomed foreclosure prevention plans from being successful for even the most proactive and well-intentioned mortgage servicers.

There are very real constraints on some of the current efforts to prevent foreclosure today because most mortgages are sliced and sold to different investors, servicers sometimes have a hard time locating all of the owners of the mortgages to get their consent for modifications.

Servicers that modify mortgages without the consent of all the investors fear that they could be sued.

Some investors refuse to approve sensible restructurings, because there is little incentive for the owner of a second mortgage to approve a modification of a first mortgage that will see the second mortgage wiped out.

Mortgage modifications that ignore the other pile of debt a household is facing is a set-up for failure. That's a leading reason why we see so many redefaults on newly modified mortgages through the current programs.

Finally, servicers who are on the front lines answering the phone calls from homeowners and processing the paperwork often are compensated more for foreclosures than modifications.

My proposal would allow judges to cut through these complicating factors to rework the underlying loans.

The mortgages that are modified in bankruptcy will provide far more value to the lenders and the investors than foreclosure.

The bill would provide borrowers who are frustrated with their mortgage servicers some desperately needed leverage to get their banker's full attention. It provides an incentive for banks to modify loans before the judges in bankruptcy do it for them.

Best of all, this program would cost the taxpayers nothing. Given the staggering amounts that taxpayers have been asked to give to the mortgage industry lately, the taxpayers are ready for a plan that doesn't cost them anything and that will actually work.

Since the Mortgage Bankers Association still opposes this plan, after taking all of that taxpayer money and after failing to do anything meaningful on their own to address this crisis, I want to address their primary remaining objection to this plan as clearly as possible so that everyone listening fully understands why the industry is wrong, once and for all.

A few weeks ago, the Chairman of the Mortgage Bankers Association testified in the Senate Judiciary Committee that my bill would create a tax of $295, per month, for every homeowner in America, forever. I asked in the hearing, and my staff asked three times after the hearing, for some shred of evidence to support such a ridiculous claim. The response finally came just before the holidays, and it is laughable.

The Mortgage Bankers Association claims that changing the bankruptcy code will create new costs for lenders that must then be passed on to all borrowers. They have concocted a list of individual costs that add up to the full ''tax,'' as they call it. But they don't provide a single shred of evidence to support any of these cost estimates. Not one. They just made them all up.

On the other hand, a study conducted by Adam Levitin of the Georgetown Law School uses actual statistical data to show that there is virtually no impact on mortgage interest rates just because mortgages can be modified by judges in bankruptcy.

The main problem with the argument that my bill will increase future mortgage rates is this:

The choice for mortgage lenders and investors is not full payment of the original mortgage versus a lower payment from a judicially modified mortgage.

The choice is between a lower payment from a judicially modified mortgage and mortgage failure.

Valparaiso's Professor White reports that in his large study sample, mortgage servicers and their investors lost an average of 55 percent of the value of the mortgages that failed through foreclosure, or about $145,000 per loan.

If those loans would have been modified in bankruptcy, the servicers and investors would have been given ownership of a sustainable mortgage worth at least the fair market value of the home plus an interest rate that included a premium for risk. These modified mortgages would on average have created far better results than the foreclosures that actually occurred.

Therefore, when the Mortgage Bankers Association claims with no evidence whatsoever that my bill would raise mortgage interest rates, we should all ask them this: Why would mortgage bankers charge future borrowers higher interest rates tomorrow because of a change in the law that

helps the bankers reduce their losses today?

I urge the Senate to move swiftly to enact the economic recovery package that America desperately needs. And as part of that effort I urge my colleagues to support the remedy to the foreclosure crisis that will provide the most help to the 8.1 million families across the country who are at risk of losing their homes.

If we don't address the core of the crisis, I fear that the stimulus may not work as well as it should. I look forward to working with Chairman DODD, Senator SCHUMER, all of the other Senators who have supported this provision, and President-elect Obama to see that it is signed into law quickly.

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

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

S. 61

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Helping Families Save Their Homes in Bankruptcy Act of 2009''.

**SEC. 2. ELIGIBILITY FOR RELIEF.**

Section 109 of title 11, United States Code, is amended—

(1) by adding at the end of subsection (e) the following: ''For purposes of this subsection, the computation of debts shall not include the secured or unsecured portions of—

''(1) debts secured by the debtor's principal residence if the current value of that residence is less than the secured debt limit; or

''(2) debts secured or formerly secured by real property that was the debtor's principal residence that was sold in foreclosure or that the debtor surrendered to the creditor if the current value of such real property is less than the secured debt limit.''; and

(2) by adding at the end of subsection (h) the following:

''(5) The requirements of paragraph (1) shall not apply in a case under chapter 13 with respect to a debtor who submits to the court a certification that the debtor has received notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure on the debtor's principal residence.''.

**SEC. 3. PROHIBITING CLAIMS ARISING FROM VIOLATIONS OF CONSUMER PROTECTION LAWS.**

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8) by striking ''or'' at the end,

(2) in paragraph (9) by striking the period at the end and inserting ''; or'', and

(3) by adding at the end the following:

''(10) the claim is subject to any remedy for damages or rescission due to failure to comply with any applicable requirement under the Truth in Lending Act, or any other provision of applicable State or Federal consumer protection law that was in force when the noncompliance took place, notwithstanding the prior entry of a foreclosure judgment.''.

**SEC. 4. AUTHORITY TO MODIFY CERTAIN MORTGAGES.**

Section 1322(b) of title 11, United States Code, is amended—

(1) by redesignating paragraph (11) as paragraph (12),

(2) in paragraph (10) by striking ''and'' at the end, and

(3) by inserting after paragraph (10) the following:

''(11) notwithstanding paragraph (2) and otherwise applicable nonbankruptcy law, with respect to a claim for a loan secured by a security interest in the debtor's principal residence that is the subject of a notice that a foreclosure may be commenced, modify the rights of the holder of such claim—

''(A) by providing for payment of the amount of the allowed secured claim as determined under section 506(a)(1);

''(B) if any applicable rate of interest is adjustable under the terms of such security interest by prohibiting, reducing, or delaying adjustments to such rate of interest applicable on and after the date of filing of the plan;

''(C) by modifying the terms and conditions of such loan—

''(i) to extend the repayment period for a period that is no longer than the longer of 40 years (reduced by the period for which such loan has been outstanding) or the remaining term of such loan, beginning on the date of the order for relief under this chapter; and

''(ii) to provide for the payment of interest accruing after the date of the order for relief under this chapter at an annual percentage rate calculated at a fixed annual percentage rate, in an amount equal to the then most recently published annual yield on conventional mortgages published by the Board of Governors of the Federal Reserve System, as of the applicable time set forth in the rules of the Board, plus a reasonable premium for risk; and

''(D) by providing for payments of such modified loan directly to the holder of the claim; and''.

**SEC. 5. COMBATING EXCESSIVE FEES.**

Section 1322(c) of title 11, the United States Code, is amended—

(1) in paragraph (1) by striking ''and'' at the end,

(2) in paragraph (2) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

''(3) the debtor, the debtor's property, and property of the estate are not liable for a fee, cost, or charge that is incurred while the case is pending and arises from a debt that is secured by the debtor's principal residence except to the extent that—

''(A) the holder of the claim for such debt files with the court (annually or, in order to permit filing consistent with clause (ii), at such more frequent periodicity as the court determines necessary) notice of such fee, cost, or charge before the earlier of—

''(i) 1 year after such fee, cost, or charge is incurred; or

''(ii) 60 days before the closing of the case; and

''(B) such fee, cost, or charge—

''(i) is lawful under applicable nonbankruptcy law, reasonable, and provided for in the applicable security agreement; and

''(ii) is secured by property the value of which is greater than the amount of such claim, including such fee, cost, or charge;

''(4) the failure of a party to give notice described in paragraph (3) shall be deemed a waiver of any claim for fees, costs, or charges described in paragraph (3) for all purposes, and any attempt to collect such fees, costs, or charges shall constitute a violation of section 524(a)(2) or, if the violation occurs before the date of discharge, of section 362(a); and

''(5) a plan may provide for the waiver of any prepayment penalty on a claim secured by the debtor's principal residence.''.

**SEC. 6. CONFIRMATION OF PLAN.**

Section 1325(a) of title 11, the United States Code, is amended—

(1) in paragraph (8) by striking ''and'' at the end,

(2) in paragraph (9) by striking the period at the end and inserting a semicolon, and

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

''(10) notwithstanding subclause (I) of paragraph (5)(B)(i), the plan provides that the holder of a claim whose rights are modified pursuant to section 1322(b)(11) retain the lien until the later of—

''(A) the payment of such holder's allowed secured claim; or

''(B) discharge under section 1328; and

''(11) the plan modifies a claim in accordance with section 1322(b)(11), and the court finds that such modification is in good faith.''.

**SEC. 7. DISCHARGE.**

Section 1328 of title 11, the United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''(other than payments to holders of claims whose rights are modified under section 1322(b)(11)'' after ''paid'' the 1st place it appears, and

(B) in paragraph (1) by inserting ''or, to the extent of the unpaid portion of an allowed secured claim, provided for in section 1322(b)(11)'' after ''1322(b)(5)'', and

(2) in subsection (c)(1) by inserting ''or, to the extent of the unpaid portion of an allowed secured claim, provided for in section 1322(b)(11)'' after ''1322(b)(5)''.

**SEC. 8. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply with respect to cases commenced under title 11 of the United States Code before, on, or after the date of the enactment of this Act.

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By Mr. INOUYE:

S. 63. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses and physicians assistants under the Medicaid Program; to the Committee on Finance.

Mr. INOUYE. Mr. President, today, I, again, introduce the Medicaid Advanced Practice Nurse and Physician Assistants Access Act of 2009. This legislation would change the Federal law to expand fee-for-service Medicaid to include direct payment for services provided by all nurse practitioners, clinical nurse specialists, and physician assistants. It would ensure all nurse practitioners, certified nurse midwives, and physician assistants are recognized as primary care case managers, and require Medicaid panels to include advanced practice nurses on their managed care panels.

Advanced practice nurses are registered nurses who have attained additional expertise in the clinical management of health conditions. Typically, an advanced practice nurse holds a master's degree with didactic and clinical preparation beyond that of the registered nurse. They are employed in clinics, hospitals, and private practices. While there are many titles given to these advanced practice

nurses, such as pediatric nurse practitioners, family nurse practitioners, certified nurse midwives, certified registered nurse anesthetists, and clinical nurse specialists, our current Medicaid law has not kept up with the multiple specialties and titles of these advanced practitioners, nor has it recognized the critical role physician assistants play in the delivery of primary care.

I have been a long-time advocate of advanced practice nurses and their ability to extend health care services to our most rural and underserved communities. They have improved access to health care in Hawaii and throughout the United States by their willingness to practice in what some providers might see as undesirable locations—extremely rural, frontier, or urban areas. This legislation ensures they are recognized and reimbursed for providing the necessary health care services patients need, and it gives those patients the choice of selecting advanced practice nurses and physician assistants as their primary care providers.

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

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

S. 63

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Medicaid Advanced Practice Nurses and Physician Assistants Access Act of 2009''.

**SEC. 2. IMPROVED ACCESS TO SERVICES OF ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS UNDER STATE MEDICAID PROGRAMS.**

(a) PRIMARY CARE CASE MANAGEMENT.—Section 1905(t)(2) of the Social Security Act (42 U.S.C. 1396d(t)(2)) is amended by striking subparagraph (B) and inserting the following:

''(B) A nurse practitioner (as defined in section 1861(aa)(5)(A)).

''(C) A certified nurse-midwife (as defined in section 1861(gg)).

''(D) A physician assistant (as defined in section 1861(aa)(5)(A)).''.

(b) FEE-FOR-SERVICE PROGRAM.—Section 1905(a)(21) of such Act (42 U.S.C. 1396d(a)(21)) is amended—

(1) by inserting ''(A)'' after ''(21)'';

(2) by striking ''services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner (as defined by the Secretary) which the certified pediatric nurse practitioner or certified family nurse practitioner'' and inserting ''services furnished by a nurse practitioner (as defined in section 1861(aa)(5)(A)) or by a clinical nurse specialist (as defined in section 1861(aa)(5)(B)) which the nurse practitioner or clinical nurse specialist'';

(3) by striking ''the certified pediatric nurse practitioner or certified family nurse practitioner'' and inserting ''the nurse practitioner or clinical nurse specialist''; and

(4) by inserting before the semicolon at the end the following: ''and (B) services furnished by a physician assistant (as defined in section 1861(aa)(5)) with the supervision of a physician which the physician assistant is legally authorized to perform under State law''.

(c) INCLUDING IN MIX OF SERVICE PROVIDERS UNDER MEDICAID MANAGED CARE ORGANIZATIONS.—Section 1932(b)(5)(B) of such Act (42 U.S.C. 1396u–2(b)(5)(B)) is amended by inserting '', with such mix including nurse practitioners, clinical nurse specialists, physician assistants, certified nurse midwives, and certified registered nurse anesthetists (as defined in section 1861(bb)(2))'' after ''services''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished in calendar quarters beginning on or after 90 days after the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

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By Mr. INOUYE:

S. 65. A bill to provide relief to the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, almost 14 years ago, I stood before you to introduce a bill ''to provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims.''

That bill was introduced as Senate Resolution 223, which referred the Pottawatomi's claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings of fact and conclusions of law to enable the Congress to determine whether the claim of the Pottawatomi Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Nine years ago, the Chief Judge of the Court of Federal Claims reported back that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. By settlement stipulation, the United States has taken the position that it would be ''fair, just and equitable'' to settle the claims of the Pottawatomi Nation in Canada for the sum of $1,830,000. This settlement amount was reached by the parties after 7 years of extensive, fact-intensive litigation. Independently, the Court of Federal Claims concluded that the settlement amount is ''not a gratuity'' and that the ''settlement was predicated on a credible legal claim.'' Pottawatomi Nation in Canada, et al. v. United States, Cong. Ref. 94–1037X at 28 (Ct. Fed. Cl., September 15, 2000) (Report of Hearing Officer).

The bill I introduce today is to authorize the payment of those funds that the United States has concluded would be ''fair, just and equitable'' to satisfy this legal claim from amounts appropriated under section 1304 of title 31 of the United States Code. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

For the information of our colleagues, this is the historical background that informs the underlying legal claim of the Canadian Pottawatomi.

The members of the Pottawatomi Nation in Canada are one of the descendant groups—successors-in-interest—of the historical Pottawatomi Nation and their claim originates in the latter part of the 18th century. The historical Pottawatomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin. From 1795 to 1833, the United States annexed most of the traditional land of the Pottawatomi Nation through a series of treaties of cession—many of these cessions were made under extreme duress and the threat of military action. In exchange, the Pottawatomis were repeatedly made promises that the remainder of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi.

In 1829, the United States formally adopted a Federal policy of removal—an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of that effort, the government increasingly pressured the Pottawatomis to cede the remainder of their traditional lands—some 5 million acres in and around the city of Chicago and remove themselves west. For years, the Pottawatomis steadfastly refused to cede the remainder of their tribal territory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawatomi with orders to extract a cession of the remaining lands. The Treaty Commissioners spent 2 weeks using extraordinarily coercive tactics—including threats of war—in an attempt to get the Pottawatomis to agree to cede their territory. Finally, those Pottawatomis who were present relented and on September 26, 1933, they ceded their remaining tribal estate through what would be known as the Treaty of Chicago. Seventy-seven members of the Pottawatomi Nation signed the Treaty of Chicago. Members of the ''Wisconsin Band'' were not present and did not assent to the cession.

In exchange for their land, the Treaty of Chicago provided that the United States would give to the Pottawatomis 5 million acres of comparable land in what is now Missouri. The Pottawatomi were familiar with the Missouri land, aware that it was similar to their homeland. But the Senate refused to ratify that negotiated agreement and unilaterally switched the land to 5 million acres in Iowa. The Treaty Commissioners were sent back to acquire Pottawatomi assent to the Iowa land. All but seven of the original 77 signatories refused to accept the change even with promises that if they were dissatisfied ''justice would be done.'' Treaty of Chicago, as amended, Article 4. Nevertheless, the Treaty of Chicago was ratified as amended by the

Senate in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was ''not fit for snakes to live on.''

While some Pottawatomis removed westward, many of the Pottawatomis—particularly the Wisconsin Band, whose leaders never agreed to the Treaty—refused to do so. By 1836, the United States began to forcefully remove Pottawatomis who remained in the east—with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomi were forcefully removed by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

Knowing of these conditions, many of the Pottawatomis including most of those in the Wisconsin Band vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Band ultimately found it necessary to flee to Canada. They were often pursued to the border by government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomis were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused payment of annuities to any Pottawatomi groups that had not removed west. In the 1860s, members of the Wisconsin Band—those still in their traditional territory and those forced to flee to Canada—petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864 (13 Stat. 172) the Congress declared that the Wisconsin Band did not forfeit their annuities by not removing and directed that the share of the Pottawatomi Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. (H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949). Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band—most of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario—petitioned the Senate once again to pay them their fair portion of annuities as required by the law and treaties. (Sen. Doc. No. 185, 57th Cong., 2d Sess.) By the Act of June 21, 1906 (34 Stat. 380), the Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and establish a roll of the Wisconsin Band Pottawatomis that still remained in the East. In addition, the Congress ordered the Secretary to determine ''the Wisconsin Bands proportionate shares of the annuities, trust funds, and other monies paid to or expended for the tribe to which they belong in which the claimant Indians have not shared, and the amount of such monies retained in the Treasury of the United States to the credit of the claimant Indians as directed the provision of the Act of June 25, 1864.''

In order to carry out the 1906 Act, the Secretary of the Interior directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomi in both the United States and Canada. Dr. Wooster documented 2007 Wisconsin Pottawatomis: 457 in Wisconsin and Michigan and 1550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomis in Wisconsin and Michigan was $477,339 and that the proportionate share of annuities due the Pottawatomi Nation in Canada was $1,517,226. The Congress thereafter enacted a series of appropriation Acts from June 30, 1913 to May 29, 1928 to satisfy most of the monies owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomi Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this congressional reference, they had never been provided their day in court. In 1910, the United States and Great Britain entered into an agreement for the purpose of dealing with claims between both countries, including claims of Indian tribes within their respective jurisdictions, by creating the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomi Nation in Canada diligently sought to have their claim heard in this international forum. Overlooked for more pressing international matters of the period, including the intervention of World War I, the Pottawatomis then came to the U.S. Congress for redress of their claim.

In 1946, the Congress waived its sovereign immunity and established the Indian Claims Commission for the purpose of granting tribes their long-delayed day in court. The Indian Claims Commission Act, ICCA, granted the Commission jurisdiction over claims such as the type involved here. In 1948, the Wisconsin Band Pottawatomis from both sides of the border—brought suit together in the Indian Claims Commission for recovery of damages. Hannahville Indian Community v. U.S., No. 28 (Ind. Cl. Comm. Filed May 4, 1948). Unfortunately, the Indian Claims Commission dismissed Pottawatomi Nation in Canada's part of the claim ruling that the Commission had no jurisdiction to consider claims of Indians living outside territorial limits of the United States. Hannahville Indian Community v. U.S., 115 Ct. Cl. 823 (1950). The claim of the Wisconsin Band residing in the United States that was filed in the Indian Claims Commission was finally decided in favor of the Wisconsin Band by the U.S. Claims Court in 1983. Hannahville Indian Community v. United States, 4 Ct. Cl. 445 (1983). The Court of Claims concluded that the Wisconsin Band was owed a member's proportionate share of unpaid annuities from 1838 through 1907 due under various treaties, including the Treaty of Chicago and entered judgment for the American Wisconsin Band Pottawatomis for any monies not paid. Still the Pottawatomi Nation in Canada was excluded because of the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomi Nation in Canada came to the Senate and after careful consideration, we finally gave them their long-awaited day in court through the congressional reference process. The court has now reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a ''fair, just and equitable'' resolution to this claim.

The Pottawatomi Nation in Canada has sought justice for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for us to finally live up to the promise our government made so many years ago. It will not correct all the wrongs of the past, but it is a demonstration that this government is willing to admit when it has left unfulfilled an obligation and that the United States is willing to do what we can to see that justice—so long delayed is not now denied.

Finally, I would just note that the claim of the Pottawatomi Nation in Canada is supported through specific resolutions by the National Congress of American Indians, the oldest, largest and most-representative tribal organization here in the United States, the Assembly of First Nations, which includes all recognized tribal entities in Canada, and each and every of the Pottawatomi tribal groups that remain in the United States today.

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

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

S. 65

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

**SECTION 1. SETTLEMENT OF CERTAIN CLAIMS.**

(a) AUTHORIZATION FOR PAYMENT.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary of the Treasury shall pay to the Pottawatomi Nation in Canada $1,830,000 from amounts appropriated under section 1304 of title 31, United States Code.

(b) PAYMENT IN ACCORDANCE WITH STIPULATION FOR RECOMMENDATION OF SETTLEMENT.—The payment under subsection (a) shall—

(1) be made in accordance with the terms and conditions of the Stipulation for Recommendation of Settlement dated May 22, 2000, entered into between the Pottawatomi

Nation in Canada and the United States (referred to in this section as the ''Stipulation for Recommendation of Settlement''); and

(2) be included in the report of the Chief Judge of the United States Court of Federal Claims regarding Congressional Reference No. 94–1037X, submitted to the Senate on January 4, 2001, in accordance with sections 1492 and 2509 of title 28, United States Code.

(c) FULL SATISFACTION OF CLAIMS.—The payment under subsection (a) shall be in full satisfaction of all claims of the Pottawatomi Nation in Canada against the United States that are referred to or described in the Stipulation for Recommendation of Settlement.

(d) NONAPPLICABILITY.—Notwithstanding any other provision of law, the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) does not apply to the payment under subsection (a).

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By Mr. INOUYE (for himself and Ms. LANDRIEU):

S. 66. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Services are permitted to travel on a space-available basis on nonscheduled military flights within the continental United States, and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for veterans with 100 percent service-connected disabilities.

We owe these heroic men and women who have given so much to our country a debt of gratitude. Of course, we can never repay them for the sacrifices they have made on behalf of our Nation, but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying ''thank you'' by supporting this legislation.

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

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

S. 66

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

**SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.**

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1060b the following new section:

**''§ 1060c. Travel on military aircraft: certain disabled former members of the armed forces**

''The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Air Mobility Command. The Secretary of Defense shall permit such travel on a space-available basis.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by inserting after the item relating to section 1060b the following new item:

''1060c. Travel on military aircraft: certain disabled former members of the armed forces.''.

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By Mr. INOUYE:

S. 67. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, today I am reintroducing legislation to enable those former prisoners of war who have been separated honorably from their respective services and who have been rated as having a 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation's enemies, I do feel this gesture is both meaningful and important to those concerned because it serves as a reminder that our Nation has not forgotten their sacrifices.

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

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

S. 67

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

**SECTION 1. USE OF COMMISSARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.**

(a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

**''§ 1064a. Use of commissary and exchange stores: certain disabled former prisoners of war**

''(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, former prisoners of war described in subsection (b) may use commissary and exchange stores.

''(b) COVERED INDIVIDUALS.—Subsection (a) applies to any former prisoner of war who—

''(1) separated from active duty in the armed forces under honorable conditions; and

''(2) has a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more.

''(c) DEFINITIONS.—In this section:

''(1) The term 'former prisoner of war' has the meaning given that term in section 101(32) of title 38.

''(2) The term 'service-connected' has the meaning given that term in section 101(16) of title 38.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 54 of such title is amended by inserting after the item relating to section 1064 the following new item:

''1064a. Use of commissary and exchange stores: certain disabled former prisoners of war.''.

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By Mr. INOUYE:

S. 68. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, I am reintroducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Our Filipino veterans fought side by side with Americans and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits that, I believe, they are entitled to. As this population becomes older, it is important for our nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great Nation that we are today.

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

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

S. 68

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

**SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.**

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veterans', or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) that is available to the Secretary, including information and evidence submitted by the applicant, if any.

**SEC. 2. CERTIFICATE OF SERVICE.**

(a) ISSUANCE OF CERTIFICATE OF SERVICE.—The Secretary of the Army shall issue a certificate of service to each person determined by the Secretary to have performed military service described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of

the military service described in the certificate.

**SEC. 3. APPLICATIONS BY SURVIVORS.**

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

**SEC. 4. LIMITATION PERIOD.**

The Secretary of the Army may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of the enactment of this Act.

**SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.**

No benefits shall accrue to any person for any period before the date of the enactment of this Act as a result of the enactment of this Act.

**SEC. 6. REGULATIONS.**

The Secretary of the Army shall prescribe regulations to carry out sections 1, 3, and 4.

**SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.**

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Department of Veterans Affairs pursuant to regulations prescribed by the Secretary of Veterans Affairs.

**SEC. 8. DEFINITION.**

In this Act, the term ''World War II'' means the period beginning on December 7, 1941, and ending on December 31, 1946.

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By Mr. INOUYE (for himself, Mr. LIEBERMAN, Mr. CARPER, Ms. MURKOWSKI, Mr. LEVIN, and Mr. AKAKA):

S. 69. A bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. INOUYE. Mr. President, I rise to speak in support of the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act.

The story of U.S. citizens taken from their homes on the west coast and confined in camps is a story that was made known after a fact-finding study by a Commission that Congress authorized in 1980. That study was followed by a formal apology by President Reagan and a bill for reparations. Far less known, and indeed, I myself did not initially know, is the story of Latin Americans of Japanese descent taken from their homes in Latin America, stripped of their passports, brought to the U.S., and interned in American camps.

This is a story about the U.S. government's act of reaching its arm across international borders, into a community that did not pose an immediate threat to our Nation, in order to use them, devoid of passports or any other proof of citizenship, for exchange with Americans with Japan. Between the years 1941 and 1945, our Government, with the help of Latin American officials, arbitrarily arrested persons of Japanese descent from streets, homes, and workplaces. Approximately 2,300 undocumented persons were brought to camp sites in the U.S., where they were held under armed watch, and then held in reserve for prisoner exchange. Those used in an exchange were sent to Japan, a foreign country that many had never set foot on since their ancestors' immigration to Latin America.

Despite their involuntary arrival, Latin American internees of Japanese descent were considered by the Immigration and Naturalization Service as illegal entrants. By the end of the war, some Japanese Latin Americans had been sent to Japan. Those who were not used in a prisoner exchange were cast out into a new and English-speaking country, and subject to deportation proceedings. Some returned to Latin America. Others remained in the U.S., because their country of origin in Latin America refused their re-entry, because they were unable to present a passport.

When I first learned of the wartime experiences of Japanese Latin Americans, it seemed unbelievable, but indeed, it happened. It is a part of our national history, and it is a part of the living histories of the many families whose lives are forever tied to internment camps in our country.

The outline of this story was sketched out in a book published by the Commission on Wartime Relocation and Internment of Civilians formed in 1980. This Commission had set out to learn about Japanese Americans. Towards the close of their investigations, the Commissioners stumbled upon this extraordinary effort by the U.S. government to relocate, intern, and deport Japanese persons formerly living in Latin America. Because this finding surfaced late in its study, the Commission was unable to fully uncover the facts, but found them significant enough to include in its published study, urging a deeper investigation.

I rise today to introduce the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, which would establish a fact-finding Commission to extend the study of the 1980 Commission. This Commission's task would be to determine facts surrounding the U.S. government's actions in regards to Japanese Latin Americans subject to a program of relocation, internment, and deportation. I believe that examining this extraordinary program would give finality to, and complete the account of Federal actions to detain and intern civilians of Japanese ancestry.

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

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

S. 69

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act''.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Based on a preliminary study published in December 1982 by the Commission on Wartime Relocation and Internment of Civilians, Congress finds the following:

(1) During World War II, the United States—

(A) expanded its internment program and national security investigations to conduct the program and investigations in Latin America; and

(B) financed relocation to the United States, and internment, of approximately 2,300 Latin Americans of Japanese descent, for the purpose of exchanging the Latin Americans of Japanese descent for United States citizens held by Axis countries.

(2) Approximately 2,300 men, women, and children of Japanese descent from 13 Latin American countries were held in the custody of the Department of State in internment camps operated by the Immigration and Naturalization Service from 1941 through 1948.

(3) Those men, women, and children either—

(A) were arrested without a warrant, hearing, or indictment by local police, and sent to the United States for internment; or

(B) in some cases involving women and children, voluntarily entered internment camps to remain with their arrested husbands, fathers, and other male relatives.

(4) Passports held by individuals who were Latin Americans of Japanese descent were routinely confiscated before the individuals arrived in the United States, and the Department of State ordered United States consuls in Latin American countries to refuse to issue visas to the individuals prior to departure.

(5) Despite their involuntary arrival, Latin American internees of Japanese descent were considered to be and treated as illegal entrants by the Immigration and Naturalization Service. Thus, the internees became illegal aliens in United States custody who were subject to deportation proceedings for immediate removal from the United States. In some cases, Latin American internees of Japanese descent were deported to Axis countries to enable the United States to conduct prisoner exchanges.

(6) Approximately 2,300 men, women, and children of Japanese descent were relocated from their homes in Latin America, detained in internment camps in the United States, and in some cases, deported to Axis countries to enable the United States to conduct prisoner exchanges.

(7) The Commission on Wartime Relocation and Internment of Civilians studied Federal actions conducted pursuant to Executive Order 9066 (relating to authorizing the Secretary of War to prescribe military areas). Although the United States program of interning Latin Americans of Japanese descent was not conducted pursuant to Executive Order 9066, an examination of that extraordinary program is necessary to establish a complete account of Federal actions to detain and intern civilians of enemy or foreign nationality, particularly of Japanese descent. Although historical documents relating to the program exist in distant archives, the Commission on Wartime Relocation and Internment of Civilians did not research those documents.

(8) Latin American internees of Japanese descent were a group not covered by the

Civil Liberties Act of 1988 (50 U.S.C. App. 1989b et seq.), which formally apologized and provided compensation payments to former Japanese Americans interned pursuant to Executive Order 9066.

(b) PURPOSE.—The purpose of this Act is to establish a fact-finding Commission to extend the study of the Commission on Wartime Relocation and Internment of Civilians to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

**SEC. 3. ESTABLISHMENT OF THE COMMISSION.**

(a) IN GENERAL.—There is established the Commission on Wartime Relocation and Internment of Latin Americans of Japanese descent (referred to in this Act as the ''Commission'').

(b) COMPOSITION.—The Commission shall be composed of 9 members, who shall be appointed not later than 60 days after the date of enactment of this Act, of whom—

(1) 3 members shall be appointed by the President;

(2) 3 members shall be appointed by the Speaker of the House of Representatives, on the joint recommendation of the majority leader of the House of Representatives and the minority leader of the House of Representatives; and

(3) 3 members shall be appointed by the President pro tempore of the Senate, on the joint recommendation of the majority leader of the Senate and the minority leader of the Senate.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) MEETINGS.—

(1) FIRST MEETING.—The President shall call the first meeting of the Commission not later than the later of—

(A) 60 days after the date of enactment of this Act; or

(B) 30 days after the date of enactment of legislation making appropriations to carry out this Act.

(2) SUBSEQUENT MEETINGS.—Except as provided in paragraph (1), the Commission shall meet at the call of the Chairperson.

(e) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a Chairperson and Vice Chairperson from among its members. The Chairperson and Vice Chairperson shall serve for the life of the Commission.

**SEC. 4. DUTIES OF THE COMMISSION.**

(a) IN GENERAL.—The Commission shall—

(1) extend the study of the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act—

(A) to investigate and determine facts and circumstances surrounding the United States' relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States; and

(B) in investigating those facts and circumstances, to review directives of the United States armed forces and the Department of State requiring the relocation, detention in internment camps, and deportation to Axis countries of Latin Americans of Japanese descent; and

(2) recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

(b) REPORT.—Not later than 1 year after the date of the first meeting of the Commission pursuant to section 3(d)(1), the Commission shall submit a written report to Congress, which shall contain findings resulting from the investigation conducted under subsection (a)(1) and recommendations described in subsection (a)(2).

**SEC. 5. POWERS OF THE COMMISSION.**

(a) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this Act—

(1) hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (a) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(c) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to perform its duties. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

**SEC. 6. PERSONNEL AND ADMINISTRATIVE PROVISIONS.**

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate the employment of such personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) OTHER ADMINISTRATIVE MATTERS.—The Commission may—

(1) enter into agreements with the Administrator of General Services to procure necessary financial and administrative services;

(2) enter into contracts to procure supplies, services, and property; and

(3) enter into contracts with Federal, State, or local agencies, or private institutions or organizations, for the conduct of research or surveys, the preparation of reports, and other activities necessary to enable the Commission to perform its duties.

**SEC. 7. TERMINATION.**

The Commission shall terminate 90 days after the date on which the Commission submits its report to Congress under section 4(b).

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

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By Mr. INOUYE:

S. 70. A bill to restore the traditional day of observance of Memorial Day, and for other purposes; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making Memorial Day the last Monday in May, we have lost sight of the significance of this day to our Nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation

designating Memorial Day and Veterans Day as days for prayer and ceremonies. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our Nation.

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

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

S. 70

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

**SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.**

(a) DESIGNATION OF LEGAL PUBLIC HOLIDAY.—Section 6103(a) of title 5, United States Code, is amended by striking ''Memorial Day, the last Monday in May.'' and inserting the following:

''Memorial Day, May 30.''.

(b) OBSERVANCES AND CEREMONIES.—Section 116 of title 36, United States Code, is amended—

(1) in subsection (a), by striking ''The last Monday in May'' and inserting ''May 30''; and

(2) in subsection (b)—

(A) by striking ''and'' at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

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

''(4) calling on the people of the United States to observe Memorial Day as a day of ceremonies to show respect for United States veterans of wars and other military conflicts; and''.

(c) DISPLAY OF FLAG.—Section 6(d) of title 4, United States Code, is amended by striking ''the last Monday in May;'' and inserting ''May 30;''.

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By Mr. INOUYE (for himself and Mr. AKAKA):

S. 72. A bill to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise to introduce a bill to reauthorize Title VIII of the Native American Housing Assistance and Self-Determination Act. Senator AKAKA joins me in sponsoring this measure. Title VIII provides authority for the appropriation of funds for the construction of low-income housing for native Hawaiians and further provides authority for access to loan guarantees associated with the construction of housing to serve native Hawaiians.

Three studies have documented the acute housing needs of native Hawaiians—which include the highest rates of overcrowding and homelessness in the State of Hawaii. Those same studies indicate that inadequate housing rates for Native Hawaiians are amongst the highest in the Nation.

The reauthorization of Title VIII will support the continuation of efforts to assure that the native people of Hawaii may one day have access to housing opportunities that are comparable to those now enjoyed by other Americans.

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

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

S. 72

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Hawaiian Homeownership Opportunity Act of 2009''.

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR HOUSING ASSISTANCE.**

Section 824 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4243) is amended by striking ''fiscal years'' and all that follows and inserting the following: ''fiscal years 2009, 2010, 2011, 2012, and 2013.''.

**SEC. 3. LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.**

Section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b) is amended—

(1) in subsection (b), by striking ''or as a result of a lack of access to private financial markets'';

(2) in subsection (c), by striking paragraph (2) and inserting the following:

''(2) ELIGIBLE HOUSING.—The loan will be used to construct, acquire, refinance, or rehabilitate 1- to 4-family dwellings that are—

''(A) standard housing; and

''(B) located on Hawaiian Home Lands.''; and

(3) in subsection (j)(7), by striking ''fiscal years'' and all that follows through the end of the paragraph and inserting the following: ''fiscal years 2009, 2010, 2011, 2012, and 2013.''.

**SEC. 4. ELIGIBILITY OF DEPARTMENT OF HAWAIIAN HOME LANDS FOR TITLE VI LOAN GUARANTEES.**

Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191 et seq.) is amended—

(1) in the title heading, by inserting ''**AND NATIVE HAWAIIAN**'' after ''**TRIBAL**'';

(2) in section 601 (25 U.S.C. 4191)—

(A) in subsection (a)—

(i) by striking ''or tribally designated housing entities with tribal approval'' and inserting '', by tribally designated housing entities with tribal approval, or by the Department of Hawaiian Home Lands,''; and

(ii) by inserting ''or 810, as applicable,'' after ''section 202'' ; and

(B) in subsection (c), by inserting ''or title VIII, as applicable'' before the period at the end;

(3) in section 602 (25 U.S.C. 4192)—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking ''or housing entity'' and inserting '', housing entity, or Department of Hawaiian Home Lands''; and

(ii) in paragraph (3)—

(I) by inserting ''or Department'' after ''tribe'';

(II) by inserting ''or title VIII, as applicable,'' after ''title I''; and

(III) by inserting ''or 811(b), as applicable'' before the semicolon at the end; and

(B) in subsection (b)(2), by striking ''or housing entity'' and inserting '', housing entity, or the Department of Hawaiian Home Lands'';

(4) in the first sentence of section 603 (25 U.S.C. 4193), by striking ''or housing entity'' and inserting '', housing entity, or the Department of Hawaiian Home Lands''; and

(5) in section 605(b) (25 U.S.C. 4195(b)), by striking ''1997 through 2007'' and inserting ''2009 through 2013''.

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By Mrs. FEINSTEIN:

S. 73. A bill to establish a systematic mortgage modification program at the Federal Deposit Insurance Corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation that will limit foreclosures and stabilize home values through Federal loan guarantees and standardized procedures for mortgage workout agreements.

The Systematic Foreclosure Prevention and Mortgage Modification Act would implement the foreclosure prevention plan developed by Federal Deposit Insurance Corporation, FDIC, Chairman Sheila Bair.

There are three key components of this legislation.

Servicers would be incentivized to modify mortgages, receiving $1,000 to help cover the costs of each loan modification; the Federal Government would share up to 50 percent of any loss should the homeowner default after receiving a modification; and participating servicers would be required to systematically review and modify all suitable loans in their portfolios, applying a standard calculation to help expedite loan modifications as cost-effectively as possible.

The FDIC estimates that roughly 2.2 million home loans, worth $444 billion, could be modified under this plan, with 1.5 million foreclosures avoided.

This legislation is projected to cost at least $25 billion; however, no additional spending is necessary.

This effort would be funded solely through the Troubled Assets Relief Program, TARP, to ensure that one of the core objectives of the bill, assistance to homeowners, is achieved.

The foreclosure crisis and declining housing market remain at the epicenter of the economic challenges we face. And, although the Federal Government has taken unprecedented steps to address this problem, they have not been sufficient.

Foreclosures are in the best interest of no one.

Neighborhoods are decimated when homes are repossessed or left vacant, property values decline, local economies suffer, and crime often increases in blighted areas. Lenders must sustain the costs of foreclosure and are left with the burden of reselling properties in a distressed market.

Homeowners are forced to give up on the American dream, and in some cases, tenants are forced out of homes they have been renting.

To date, no TARP funds have been allocated by Treasury to directly address the foreclosure crisis.

This must change, and it must change now.

According to the FDIC, the pace of loan modifications continues to be very slow, with only 4 percent of troubled mortgages being modified to prevent foreclosures each month.

A systematic approach is needed to expedite this process. The FDIC has

implemented such a program successfully at Indy Mac Federal Bank, to reduce mortgage payments as low as 31 percent of monthly income.

Loan modifications are based on interest rate reductions, extended loan terms, and principal forbearance.

Unfortunately, banks that have received TARP funds have not been compelled to implement foreclosure reduction measures, and adequate incentive structures are not in place.

This legislation provides prudent and cost-effective steps to improve assistance for struggling homeowners while also stabilizing the housing market.

Foreclosures have had a devastating impact on our national economy, and the damage in my state has been particularly severe.

California accounts for 1/3 of all foreclosure activity in the United States.

Roughly 800,000 foreclosures will be filed in my state in 2008—a 70 percent increase over 2007, when 481,392 foreclosures were filed in California.

The foreclosure rate in California is the fourth highest in the Nation, with one foreclosure filing for every 218 households.

In fact, 6 of the 10 metropolitan areas with the highest foreclosure rate in the Nation are in California.

This includes: Merced—one out of every 76 homes in foreclosure; Modesto—one out of every 93 homes in foreclosure; Stockton—one out of every 94 homes in foreclosure; Riverside and San Bernardino—one out of every 107 homes in foreclosure; Bakersfield—one out of every 129 homes in foreclosure; and Vallejo and Fairfield—one out of every 133 homes in foreclosure.

And, the situation is only getting worse.

Property values have plummeted across California, making it difficult for many residents with adjustable rate mortgages to refinance into more stable, fixed rate products.

One California community is in a special category of need: the city of Stockton, which has been referred to as ''America's foreclosure capital.''

The foreclosure crisis has devastated this city of more than 260,000 residents.

Home foreclosures impact neighbors and reduce property values.

But, the spillover effect in Stockton has been overwhelming.

Jobs: The downturn in the construction industry has contributed to an unemployment rate of 11.9 percent in San Joaquin County, well above the national average.

Schools: Foreclosures have displaced many students who were forced to change schools or leave the area when their families lost their homes.

The student population of Stockton Unified School District, the biggest in San Joaquin County, was down about 200 students last year.

Student displacement has a direct impact on school budgets, which are linked to student attendance.

Most unfortunately, the emotional impact on children being forced to switch schools in the middle of the year can be tremendous.

Public Services: High foreclosure rates have taken a toll on the city of Stockton's budget.

Stockton now faces a nearly $25 million budget deficit.

City officials have been forced to consider voluntary buyouts for municipal employees and mandatory 10-day furloughs to help close the gap.

Because property values have fallen—due to foreclosures and increased inventory—Stockton also is facing lower tax revenues, which are depended upon to fill the city's $186 million general fund.

This could have a dramatic effect on the city's emergency services; about 75 percent of Stockton's general fund pays for police and fire services.

It is essential that we not forget communities such as Stockton. We cannot sit idly by and watch them fall through the cracks.

This legislation is a much-needed step forward to provide relief to Main Street.

Millions of Americans have lost their homes to foreclosure, and millions more are at risk of losing their homes in the coming months.

Part of this problem was driven by abusive and predatory lending practices.

Part of the problem can be attributed to lax underwriting standards and regulators who were asleep at the wheel.

Part of this problem was due to individuals who made bad choices.

But, this is a problem that now impacts—either directly or indirectly—all hard-working American families.

These are significant challenges we face, and innovative solutions are required.

This bill will serve as a companion to legislation introduced in the House by my colleague from California, Representative MAXINE WATERS.

I look forward to working with her, and my colleagues on both sides of the aisle, to pass this important legislation as soon as possible.

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

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

S. 73

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Systematic Foreclosure Prevention and Mortgage Modification Act''.

**SEC. 2. SYSTEMATIC FORECLOSURE PREVENTION AND MORTGAGE MODIFICATION PLAN ESTABLISHED.**

(a) IN GENERAL.—The Chairperson of the Federal Deposit Insurance Corporation shall establish a systematic foreclosure prevention and mortgage modification program by—

(1) paying servicers $1,000 to cover expenses for each loan modified according to the required standards; and

(2) sharing up to 50 percent of any losses incurred if a modified loan should subsequently re-default.

(b) PROGRAM COMPONENTS.—The program established under subsection (a) shall include the following components:

(1) ELIGIBLE BORROWERS.—The program shall be limited to loans secured by owner-occupied properties.

(2) EXCLUSION FOR EARLY PAYMENT DEFAULT.—To promote sustainable mortgages, government loss sharing shall be available only after the borrower has made a minimum of 6 payments on the modified mortgage.

(3) STANDARD NET PRESENT VALUE TEST.—In order to promote consistency and simplicity in implementation and audit, a standard test comparing the expected net present value of modifying past due loans compared to the net present value of foreclosing on them will be applied. Under this test, standard assumptions shall be used to ensure that a consistent standard for affordability is provided based on a 31 percent borrower mortgage debt-to-income ratio.

(4) SYSTEMATIC LOAN REVIEW BY PARTICIPATING SERVICERS.—Participating servicers shall be required to undertake a systematic review of all of the loans under their management, to subject each loan to a standard net present value test to determine whether it is a suitable candidate for modification, and to modify all loans that pass this test. The penalty for failing to undertake such a systematic review and to carry out modifications where they are justified would be disqualification from further participation in the program until such a systematic program was introduced.

(5) MODIFICATIONS.—Modifications may include any of the following:

(A) Reduction in interest rates and fees.

(B) Forbearance of principal.

(C) Extension of the term to maturity.

(D) Other similar modifications.

(6) REDUCED LOSS SHARE PERCENTAGE FOR ''UNDERWATER LOANS''.—For loan-to-value ratios above 100 percent, the government loss share shall be progressively reduced from 50 percent to 20 percent as the current loan-to-value ratio rises, except that loss sharing shall not be available if the loan-to-value ratio of the first lien exceeds 150 percent.

(7) SIMPLIFIED LOSS SHARE CALCULATION.—In order to ensure the administrative efficiency of this program, the calculation of loss share basis would be as simple as possible. In general terms, the calculation shall be based on the difference between the net present value, as defined by the Chairperson of the Federal Deposit Insurance Corporation, of the modified loan and the amount of recoveries obtained in a disposition by refinancing, short sale, or real estate owned sale, net of disposal costs as estimated according to industry standards. Interim modifications shall be allowed.

(8) DE MINIMIS TEST.—To lower administrative costs, a de minimis test shall be used to exclude from loss sharing any modification that does not lower the monthly payment at least 10 percent.

(9) 8-YEAR LIMIT ON LOSS SHARING PAYMENT.—The loss sharing guarantee shall terminate at the end of the 8-year period beginning on the date the modification was consummated.

(c) REGULATIONS.—The Corporation shall prescribe such regulations as may be necessary to implement this Act and prevent evasions thereof.

(d) TROUBLED ASSETS.—The costs incurred by the Federal Government in carrying out the loan modification program established under this section shall be covered out of the funds made available to the Secretary of the

Treasury under section 118 of the Emergency Economic Stabilization Act of 2008.

(e) MODIFICATIONS TO PROGRAM.—The Chairperson of the Federal Deposit Insurance Corporation may make any modification to the program established under subsection (a) that the Chairperson determines are appropriate for the purpose of maximizing the number of foreclosures prevented.

(f) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Chairperson of the Federal Deposit Insurance Corporation shall submit a progress report to the Congress containing such findings and such recommendations for legislative or administrative action as the Chairperson may determine to be appropriate.

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By Mrs. HUTCHISON (for herself, Mr. VITTER, Mr. MARTINEZ, Mr. CORNYN, and Mr. ENSIGN):

S. 74. A bill to provide permanent tax relief from the marriage penalty.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to provide permanent tax relief from the marriage penalty—the most egregious, anti-family provision in the tax code. One of my highest priorities in the United States Senate has been to relieve American taxpayers of this punitive burden.

We have made important strides to eliminate this unfair tax and provide marriage penalty relief by raising the standard deduction and enlarging the 15 percent tax bracket for married joint filers to twice that of single filers. Before these provisions were changed, 42 percent of married couples paid an average penalty of $1,400.

Enacting marriage penalty relief was a giant step for tax fairness, but it may be fleeting. Even as married couples use the money they now save to put food on the table and clothes on their children, a tax increase looms in the future. Since the 2001 tax relief bill was restricted, the marriage penalty provisions will only be in effect through 2010. In 2011, marriage will again be a taxable event and a significant number of married couples will again pay more in taxes unless we act decisively. Given the challenges many families face in making ends meet, we must make sure we do not backtrack on this important reform.

The benefits of marriage are well established, yet, without marriage penalty relief, the tax code provides a significant disincentive for people to walk down the aisle. Marriage is a fundamental institution in our society and should not be discouraged by the IRS. Children living in a married household are far less likely to live in poverty or to suffer from child abuse. Research indicates these children are also less likely to be depressed or have developmental problems. Scourges such as adolescent drug use are less common in married families, and married mothers are less likely to be victims of domestic violence.

We should celebrate marriage, not penalize it. The bill I am offering would make marriage penalty relief permanent, because marriage should not be a taxable event. I call on the Senate to finish the job we started and make marriage penalty relief permanent today.

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

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

S. 74

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Permanent Marriage Penalty Relief Act of 2009''.

**SEC. 2. REPEAL OF SUNSET ON MARRIAGE PENALTY RELIEF.**

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to—

(1) sections 301, 302, and 303 of such Act (relating to marriage penalty relief), and

(2) sections 101(b) and 101(c) of the Working Families Tax Relief Act of 2004 (relating to marriage penalty relief in the standard deduction and 15-percent income tax bracket, respectively).

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By Mr. KOHL:

S. 75. A bill to amend title XVIII of the Social Security Act to require the use of generic drugs under the Medicare part D prescription drug program when available unless the brand name drug is determined to be medically necessary; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce the Generics First Act. This legislation requires the Federal Government's Medicare Part D prescription drug program to use generic drugs whenever available, unless a brand-name drug is determined to be medically necessary by a physician. Modeled after similar provisions in many state-administered Medicaid programs, this measure would reduce the high costs of the new prescription drug program and keep seniors from reaching the current coverage gap, or ''donut hole,'' by guiding beneficiaries toward cost-saving generic drug alternatives.

We know that the cost of prescription drugs is prohibitive, placing a financial strain on seniors, families, and businesses that are struggling to pay their health care bills. According to the National Bureau of Economic Research, spending on prescription drugs totaled $227.5 billion in 2007. People need help now and we must respond by expanding access to generic drugs. Generics, which on average cost 60 percent less than their brand-name counterparts, are a big part of the solution to health care costs that are spiraling out of control.

Generic drugs that are approved by the FDA must meet the same rigorous standards for safety and effectiveness as brand-name drugs. In addition to being safe and effective, the generic must have the same active ingredient or ingredients, be the same strength, and have the same labeling for the approved uses as the brand-name drug. In other words, generics perform the same medicinal purposes as their respective brand-name product.

We know generic drugs have the potential to save seniors thousands of dollars and curb health spending for the Federal Government, employers, and families. Every year, more blockbuster drugs are coming off patent, setting up the potential for billions of dollars in savings. This legislation is just one part of a larger agenda I'm pushing to remove the obstacles that prevent generics from getting to market, and I urge my colleagues to support this legislation.

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

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

S. 75

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Generics First Act of 2009''.

**SEC. 2. REQUIRED USE OF GENERIC DRUGS UNDER THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.**

(a) IN GENERAL.—Section 1860D–2(e)(2) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)) is amended by adding at the end the following new subparagraph:

''(C) NON-GENERIC DRUGS UNLESS CERTAIN REQUIREMENTS ARE MET.—

''(i) IN GENERAL.—Such term does not include a drug that is a nongeneric drug unless—

''(I) no generic drug has been approved under the Federal Food, Drug, and Cosmetic Act with respect to the drug; or

''(II) the nongeneric drug is determined to be medically necessary by the individual prescribing the drug and prior authorization for the drug is obtained from the Secretary.

''(ii) DEFINITIONS.—In this subparagraph:

''(I) GENERIC DRUG.—The term 'generic drug' means a drug that is the subject of an application approved under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, for which the Secretary has made a determination that the drug is the therapeutic equivalent of a listed drug under section 505(j)(7) of such Act.

''(II) NONGENERIC DRUG.—The term 'nongeneric drug' means a drug that is the subject of an application approved under—

''(aa) section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act; or

''(bb) section 505(b)(2) of such Act and that has been determined to be not therapeutically equivalent to any listed drug.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs dispensed on or after the date of enactment of this Act.

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By Mr. INOUYE:

S. 76. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise today, again, to introduce a bill to reauthorize the Native Hawaiian Health Care Improvement Act. Senator AKAKA joins me in sponsoring this measure.

The Native Hawaiian Health Care Improvement Act was enacted into law in 1988, and has been reauthorized several times throughout the years.

The Act provides authority for a range of programs and services designed to improve the health care status of the native people of Hawaii.

With the enactment of the Native Hawaiian Health Care Improvement Act and the establishment of native Hawaiian health care systems on most of the islands that make up the State of Hawaii, we have witnessed significant improvements in the health status of native Hawaiians, but as the findings of unmet needs and health disparities set forth in this bill make clear, we still have a long way to go.

For instance, native Hawaiians have the highest cancer mortality rates in the State of Hawaii—rates that are 22 percent higher than the rate for the total State male population and 64 percent higher than the rate for the total State female population. Nationally, native Hawaiians have the third highest mortality rate as a result of breast cancer.

With respect to diabetes, in 2004 native Hawaiians had the highest mortality rate associated with diabetes in the State—a rate which is 119 percent higher than the statewide rate for all racial groups.

When it comes to heart disease, the mortality rate of native Hawaiians associated with heart disease is 86 percent higher than the rate for the entire State and the mortality rate for hypertension is 46 percent higher than that for the entire State.

These statistics on the health status of native Hawaiians are but a small part of the long list of date that makes clear that our objective of assuring that the native people of Hawaii attain some parity of good health comparable to that of the larger U.S. population has not yet been achieved.

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

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

S. 76

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Native Hawaiian Health Care Improvement Reauthorization Act of 2009''.

**SEC. 2. AMENDMENT TO THE NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT.**

The Native Hawaiian Health Care Improvement Act (42 U.S.C. 11701 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 'Native Hawaiian Health Care Improvement Act'.

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



**''SEC. 2. FINDINGS.**

''(a) IN GENERAL.—Congress finds that—

''(1) Native Hawaiians begin their story with the Kumulipo, which details the creation and interrelationship of all things, including the evolvement of Native Hawaiians as healthy and well people;

''(2) Native Hawaiians—

''(A) are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago within Ke Moananui, the Pacific Ocean; and

''(B) have a distinct society that was first organized almost 2,000 years ago;

''(3) the health and well-being of Native Hawaiians are intrinsically tied to the deep feelings and attachment of Native Hawaiians to their lands and seas;

''(4) the long-range economic and social changes in Hawai'i over the 19th and early 20th centuries have been devastating to the health and well-being of Native Hawaiians;

''(5) Native Hawaiians have never directly relinquished to the United States their claims to their inherent sovereignty as a people or over their national territory, either through their monarchy or through a plebiscite or referendum;

''(6) the Native Hawaiian people are determined to preserve, develop, and transmit to future generations, in accordance with their own spiritual and traditional beliefs, their customs, practices, language, social institutions, ancestral territory, and cultural identity;

''(7) in referring to themselves, Native Hawaiians use the term 'Kanaka Maoli', a term frequently used in the 19th century to describe the native people of Hawai'i;

''(8) the constitution and statutes of the State of Hawai'i—

''(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

''(B) reaffirm and protect the unique right of the Native Hawaiian people to practice and perpetuate their cultural and religious customs, beliefs, practices, and language;

''(9) at the time of the arrival of the first nonindigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion;

''(10) a unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i;

''(11) throughout the 19th century until 1893, the United States—

''(A) recognized the independence of the Hawaiian Nation;

''(B) extended full and complete diplomatic recognition to the Hawaiian Government; and

''(C) entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

''(12) in 1893, John L. Stevens, the United States Minister assigned to the sovereign and independent Kingdom of Hawai'i, conspired with a small group of non-Hawaiian residents of the Kingdom, including citizens of the United States, to overthrow the indigenous and lawful government of Hawai'i;

''(13) in pursuance of that conspiracy—

''(A) the United States Minister and the naval representative of the United States caused armed forces of the United States Navy to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful Government of Hawai'i; and

''(B) after that overthrow, the United States Minister extended diplomatic recognition of a provisional government formed by the conspirators without the consent of the native people of Hawai'i or the lawful Government of Hawai'i, in violation of—

''(i) treaties between the Government of Hawai'i and the United States; and

''(ii) international law;

''(14) in a message to Congress on December 18, 1893, President Grover Cleveland—

''(A) reported fully and accurately on those illegal actions;

''(B) acknowledged that by those acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown; and

''(C) concluded that a 'substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people required that we should endeavor to repair';

''(15) Queen Lili'uokalani, the lawful monarch of Hawai'i, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawai'i, promptly petitioned the United States for redress of those wrongs and restoration of the indigenous government of the Hawaiian nation, but no action was taken on that petition;

''(16) in 1993, Congress enacted Public Law 103–150 (107 Stat. 1510), in which Congress—

''(A) acknowledged the significance of those events; and

''(B) apologized to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawai'i with the participation of agents and citizens of the United States, and the resulting deprivation of the rights of Native Hawaiians to self-determination;

''(17) between 1897 and 1898, when the total Native Hawaiian population in Hawai'i was less than 40,000, more than 38,000 Native Hawaiians signed petitions (commonly known as 'Ku'e Petitions') protesting annexation by the United States and requesting restoration of the monarchy;

''(18) despite Native Hawaiian protests, in 1898, the United States—

''(A) annexed Hawai'i through Resolution No. 55 (commonly known as the 'Newlands Resolution') (30 Stat. 750), without the consent of, or compensation to, the indigenous people of Hawai'i or the sovereign government of those people; and

''(B) denied those people the mechanism for expression of their inherent sovereignty through self-government and self-determination of their lands and ocean resources;

''(19) through the Newlands Resolution and the Act of April 30, 1900 (commonly known as the '1900 Organic Act') (31 Stat. 141, chapter 339), the United States—

''(A) received 1,750,000 acres of land formerly owned by the Crown and Government of the Hawaiian Kingdom; and

''(B) exempted the land from then-existing public land laws of the United States by mandating that the revenue and proceeds from that land be 'used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes', thereby establishing a special trust relationship between the United States and the inhabitants of Hawai'i;

''(20) in 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), which—

''(A) designated 200,000 acres of the ceded public land for exclusive homesteading by Native Hawaiians; and

''(B) affirmed the trust relationship between the United States and Native Hawaiians, as expressed by Secretary of the Interior Franklin K. Lane, who was cited in the Committee Report of the Committee on Territories of the House of Representatives as stating, 'One thing that impressed me . . . was the fact that the natives of the islands . . . for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.';

''(21) in 1938, Congress again acknowledged the unique status of the Native Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781), a provision—

''(A) to lease land within the extension to Native Hawaiians; and

''(B) to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance';

''(22) under the Act of March 18, 1959 (48 U.S.C. prec. 491 note; 73 Stat. 4), the United States—

''(A) transferred responsibility for the administration of the Hawaiian home lands to the State; but

''(B) reaffirmed the trust relationship that existed between the United States and the Native Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under that Act;

''(23) under the Act referred to in paragraph (22), the United States—

''(A) transferred responsibility for administration over portions of the ceded public lands trust not retained by the United States to the State; but

''(B) reaffirmed the trust relationship that existed between the United States and the Native Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of that Act (73 Stat. 6);

''(24) in 1978, the people of Hawai'i—

''(A) amended the constitution of Hawai'i to establish the Office of Hawaiian Affairs; and

''(B) assigned to that Office the authority—

''(i) to accept and hold in trust for the Native Hawaiian people real and personal property transferred from any source;

''(ii) to receive payments from the State owed to the Native Hawaiian people in satisfaction of the pro rata share of the proceeds of the public land trust established by section 5(f) of the Act of March 18, 1959 (48 U.S.C. prec. 491 note; 73 Stat. 6);

''(iii) to act as the lead State agency for matters affecting the Native Hawaiian people; and

''(iv) to formulate policy on affairs relating to the Native Hawaiian people;

''(25) the authority of Congress under the Constitution to legislate in matters affecting the aboriginal or indigenous people of the United States includes the authority to legislate in matters affecting the native people of Alaska and Hawai'i;

''(26) the United States has recognized the authority of the Native Hawaiian people to continue to work toward an appropriate form of sovereignty, as defined by the Native Hawaiian people in provisions set forth in legislation returning the Hawaiian Island of Kaho'olawe to custodial management by the State in 1994;

''(27) in furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people;

''(28) that program is conducted by the Native Hawaiian Health Care Systems and Papa Ola Lokahi;

''(29) health initiatives implemented by those and other health institutions and agencies using Federal assistance have been responsible for reducing the century-old morbidity and mortality rates of Native Hawaiian people by—

''(A) providing comprehensive disease prevention;

''(B) providing health promotion activities; and

''(C) increasing the number of Native Hawaiians in the health and allied health professions;

''(30) those accomplishments have been achieved through implementation of—

''(A) the Native Hawaiian Health Care Act of 1988 (Public Law 100–579); and

''(B) the reauthorization of that Act under section 9168 of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1948);

''(31) the historical and unique legal relationship between the United States and Native Hawaiians has been consistently recognized and affirmed by Congress through the enactment of more than 160 Federal laws that extend to the Native Hawaiian people the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities, including—

''(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

''(B) the American Indian Religious Freedom Act (42 U.S.C. 1996);

''(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.); and

''(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

''(32) the United States has recognized and reaffirmed the trust relationship to the Native Hawaiian people through legislation that authorizes the provision of services to Native Hawaiians, specifically—

''(A) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

''(B) the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 (42 U.S.C. 6000 et seq.);

''(C) the Veterans' Benefits and Services Act of 1988 (Public Law 100–322);

''(D) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(E) the Native Hawaiian Health Care Act of 1988 (42 U.S.C. 11701 et seq.);

''(F) the Health Professions Reauthorization Act of 1988 (Public Law 100–607; 102 Stat. 3122);

''(G) the Nursing Shortage Reduction and Education Extension Act of 1988 (Public Law 100–607; 102 Stat. 3153);

''(H) the Handicapped Programs Technical Amendments Act of 1988 (Public Law 100–630);

''(I) the Indian Health Care Amendments of 1988 (Public Law 100–713); and

''(J) the Disadvantaged Minority Health Improvement Act of 1990 (Public Law 101–527);

''(33) the United States has affirmed that historical and unique legal relationship to the Hawaiian people by authorizing the provision of services to Native Hawaiians to address problems of alcohol and drug abuse under the Anti-Drug Abuse Act of 1986 (21 U.S.C. 801 note; Public Law 99–570);

''(34) in addition, the United States—

''(A) has recognized that Native Hawaiians, as aboriginal, indigenous, native people of Hawai'i, are a unique population group in Hawai'i and in the continental United States; and

''(B) has so declared in—

''(i) the documents of the Office of Management and Budget entitled—

''(I) 'Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity' and dated October 30, 1997; and

''(II) 'Provisional Guidance on the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity' and dated December 15, 2000;

''(ii) the document entitled 'Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement' (Bulletin 00-02 to the Heads of Executive Departments and Establishments) and dated March 9, 2000;

''(iii) the document entitled 'Questions and Answers when Designing Surveys for Information Collections' (Memorandum for the President's Management Council) and dated January 20, 2006;

''(iv) Executive order number 13125 (64 Fed. Reg. 31105; relating to increasing participation of Asian Americans and Pacific Islanders in Federal programs) (June 7, 1999);

''(v) the document entitled 'HHS Tribal Consultation Policy' and dated January 2005; and

''(vi) the Department of Health and Human Services Intradepartment Council on Native American Affairs, Revised Charter, dated March 7, 2005; and

''(35) despite the United States having expressed in Public Law 103–150 (107 Stat. 1510) its commitment to a policy of reconciliation with the Native Hawaiian people for past grievances—

''(A) the unmet health needs of the Native Hawaiian people remain severe; and

''(B) the health status of the Native Hawaiian people continues to be far below that of the general population of the United States.

''(b) FINDING OF UNMET NEEDS AND HEALTH DISPARITIES.—Congress finds that the unmet needs and serious health disparities that adversely affect the Native Hawaiian people include the following:

''(1) CHRONIC DISEASE AND ILLNESS.—

''(A) CANCER.—

''(i) IN GENERAL.—With respect to all cancer—

''(I) as an underlying cause of death in the State, the cancer mortality rate of Native Hawaiians of 218.3 per 100,000 residents is 50 percent higher than the rate for the total population of the State of 145.4 per 100,000 residents;

''(II) Native Hawaiian males have the highest cancer mortality rates in the State for cancers of the lung, colon, and rectum, and for all cancers combined;

''(III) Native Hawaiian females have the highest cancer mortality rates in the State for cancers of the lung, breast, colon, rectum, pancreas, stomach, ovary, liver, cervix, kidney, and uterus, and for all cancers combined; and

''(IV) for the period of 1995 through 2000—

''(aa) the cancer mortality rate for all cancers for Native Hawaiian males of 217 per 100,000 residents was 22 percent higher than the rate for all males in the State of 179 per 100,000 residents; and

''(bb) the cancer mortality rate for all cancers for Native Hawaiian females of 192 per 100,000 residents was 64 percent higher than the rate for all females in the State of 117 per 100,000 residents.

''(ii) BREAST CANCER.—With respect to breast cancer—

''(I) Native Hawaiians have the highest mortality rate in the State from breast cancer (30.79 per 100,000 residents), which is 33 percent higher than the rate for Caucasian Americans (23.07 per 100,000 residents) and 106 percent higher than the rate for Chinese Americans (14.96 per 100,000 residents); and

''(II) nationally, Native Hawaiians have the third-highest mortality rate as a result of breast cancer (25.0 per 100,000 residents), behind African Americans (31.4 per 100,000 residents) and Caucasian Americans (27.0 per 100,000 residents).

''(iii) CANCER OF THE CERVIX.—Native Hawaiians have the highest mortality rate as a result of cancer of the cervix in the State (3.65 per 100,000 residents), followed by Filipino Americans (2.69 per 100,000 residents) and Caucasian Americans (2.61 per 100,000 residents).

''(iv) LUNG CANCER.—Native Hawaiian males and females have the highest mortality rates as a result of lung cancer in the State, at 74.79 per 100,000 for males and 47.84 per 100,000 females, which are higher than the rates for the total population of the State by 48 percent for males and 93 percent for females.

''(v) PROSTATE CANCER.—Native Hawaiian males have the third-highest mortality rate as a result of prostate cancer in the State (21.48 per 100,000 residents), with Caucasian Americans having the highest mortality rate as a result of prostate cancer (23.96 per 100,000 residents).

''(B) DIABETES.—With respect to diabetes, in 2004—

''(i) Native Hawaiians had the highest mortality rate as a result of diabetes mellitis (28.9 per 100,000 residents) in the State, which is 119 percent higher than the rate for all racial groups in the State (13.2 per 100,000 residents);

''(ii) the prevalence of diabetes for Native Hawaiians was 12.7 percent, which is 87 percent higher than the total prevalence for all residents of the State of 6.8 percent; and

''(iii) a higher percentage of Native Hawaiians with diabetes experienced diabetic retinopathy, as compared to other population groups in the State.

''(C) ASTHMA.—With respect to asthma and lower respiratory disease—

''(i) in 2004, mortality rates for Native Hawaiians (31.6 per 100,000 residents) from chronic lower respiratory disease were 52 percent higher than rates for the total population of the State (20.8 per 100,000 residents); and

''(ii) in 2005, the prevalence of current asthma in Native Hawaiian adults was 12.8 percent, which is 71 percent higher than the prevalence of the total population of the State of 7.5 percent.

''(D) CIRCULATORY DISEASES.—

''(i) HEART DISEASE.—With respect to heart disease—

''(I) in 2004, the mortality rate for Native Hawaiians as a result of heart disease (305.5 per 100,000 residents) was 86 percent higher than the rate for the total population of the State (164.3 per 100,000 residents); and

''(II) in 2005, the prevalence for heart attack was 4.4 percent for Native Hawaiians, which is 22 percent higher than the prevalence for the total population of 3.6 percent.

''(ii) CEREBROVASCULAR DISEASES.—With respect to cerebrovascular diseases—

''(I) the mortality rate from cerebrovascular diseases for Native Hawaiians (75.6 percent) was 64 percent higher than the rate for the total population of the State (46 percent); and

''(II) in 2005, the prevalence for stroke was 4.9 percent for Native Hawaiians, which is 69 percent higher than the prevalence for the total population of the State (2.9 percent).

''(iii) OTHER CIRCULATORY DISEASES.—With respect to other circulatory diseases (including high blood pressure and atherosclerosis)—

''(I) in 2004, the mortality rate for Native Hawaiians of 20.6 per 100,000 residents was 46 percent higher than the rate for the total population of the State of 14.1 per 100,000 residents; and

''(II) in 2005, the prevalence of high blood pressure for Native Hawaiians was 26.7 percent, which is 10 percent higher than the prevalence for the total population of the State of 24.2 percent.

''(2) INFECTIOUS DISEASE AND ILLNESS.—With respect to infectious disease and illness—

''(A) in 1998, Native Hawaiians comprised 20 percent of all deaths resulting from infectious diseases in the State for all ages; and

''(B) the incidence of acquired immune deficiency syndrome for Native Hawaiians is at least twice as high per 100,000 residents (10.5 percent) than the incidence for any other non-Caucasian group in the State.

''(3) INJURIES.—With respect to injuries—

''(A) the mortality rate for Native Hawaiians as a result of injuries (32 per 100,000 residents) is 16 percent higher than the rate for the total population of the State (27.5 per 100,000 residents);

''(B) 32 percent of all deaths of individuals between the ages of 18 and 24 years resulting from injuries were Native Hawaiian; and

''(C) the 2 primary causes of Native Hawaiian deaths in that age group were motor vehicle accidents (30 percent) and intentional self-harm (39 percent).

''(4) DENTAL HEALTH.—With respect to dental health—

''(A) Native Hawaiian children experience significantly higher rates of dental caries and unmet treatment needs as compared to other children in the continental United States and other ethnic groups in the State;

''(B) the prevalence rate of dental caries in the primary (baby) teeth of Native Hawaiian children aged 5 to 9 years of 4.2 per child is more than twice the national average rate of 1.9 per child in that age range;

''(C) 81.9 percent of Native Hawaiian children aged 6 to 8 have 1 or more decayed teeth, as compared to—

''(i) 53 percent for children in that age range in the continental United States; and

''(ii) 72.7 percent of other children in that age range in the State; and

''(D) 21 percent of Native Hawaiian children aged 5 demonstrate signs of baby bottle tooth decay, which is generally characterized as severe, progressive dental disease in early childhood and associated with high rates of dental disorders, as compared to 5 percent for children of that age in the continental United States.

''(5) LIFE EXPECTANCY.—With respect to life expectancy—

''(A) Native Hawaiians have the lowest life expectancy of all population groups in the State;

''(B) between 1910 and 1980, the life expectancy of Native Hawaiians from birth has ranged from 5 to 10 years less than that of the overall State population average;

''(C) the most recent tables for 1990 show Native Hawaiian life expectancy at birth (74.27 years) to be approximately 5 years less than that of the total State population (78.85 years); and

''(D) except as provided in the life expectancy calculation for 1920, Native Hawaiians have had the shortest life expectancy of all major ethnic groups in the United States since 1910.

''(6) MATERNAL AND CHILD HEALTH.—

''(A) IN GENERAL.—With respect to maternal and child health, in 2000—

''(i) 39 percent of all deaths of children under the age of 18 years in the State were Native Hawaiian;

''(ii) perinatal conditions accounted for 38 percent of all Native Hawaiian deaths in that age group;

''(iii) Native Hawaiian infant mortality rates (9.8 per 1,000 live births) are—

''(I) the highest in the State; and

''(II) 151 percent higher than the rate for Caucasian infants (3.9 per 1,000 live births); and

''(iv) Native Hawaiians have 1 of the highest infant mortality rates in the United States, second only to the rate for African Americans of 13.6 per 1,000 live births.

''(B) PRENATAL CARE.—With respect to prenatal care—

''(i) as of 2005, Native Hawaiian women have the highest prevalence (20.9 percent) of having had no prenatal care during the first trimester of pregnancy, as compared to the 5 largest ethnic groups in the State;

''(ii) of the mothers in the State who received no prenatal care in the first trimester, 33 percent were Native Hawaiian;

''(iii) in 2005, 41 percent of mothers with live births who had not completed high school were Native Hawaiian; and

''(iv) in every region of the State, many Native Hawaiian newborns begin life in a potentially hazardous circumstance, far higher than any other racial group.

''(C) BIRTHS.—With respect to births, in 2005—

''(i) 45.2 percent of live births to Native Hawaiian mothers were nonmarital, putting the affected infants at higher risk of low birth weight and infant mortality;

''(ii) of the 2,934 live births to Native Hawaiian single mothers, 9 percent were low birth weight (defined as a weight of less than 2,500 grams); and

''(iii) 43.7 percent of all low birth-weight infants born to single mothers in the State were Native Hawaiian.

''(D) TEEN PREGNANCIES.—With respect to births, in 2005—

''(i) Native Hawaiians had the highest rate of births to mothers under the age of 18 years (5.8 percent), as compared to the rate of 2.7 percent for the total population of the State; and

''(ii) nearly 62 percent of all mothers in the State under the age of 19 years were Native Hawaiian.

''(E) FETAL MORTALITY.—With respect to fetal mortality, in 2005—

''(i) Native Hawaiians had the highest number of fetal deaths in the State, as compared to Caucasian, Japanese, and Filipino residents; and

''(ii)(I) 17.2 percent of all fetal deaths in the State were associated with expectant Native Hawaiian mothers; and

''(II) 43.5 percent of those Native Hawaiian mothers were under the age of 25 years.

''(7) BEHAVIORAL HEALTH.—

''(A) ALCOHOL AND DRUG ABUSE.—With respect to alcohol and drug abuse—

''(i)(I) in 2005, Native Hawaiians had the highest prevalence of smoking of 27.9 percent, which is 64 percent higher than the rate for the total population of the State (17 percent); and

''(II) 53 percent of Native Hawaiians reported having smoked at least 100 cigarettes in their lifetime, as compared to 43.3 percent for the total population of the State;

''(ii) 33 percent of Native Hawaiians in grade 8 have smoked cigarettes at least once in their lifetime, as compared to—

''(I) 22.5 percent for all youth in the State; and

''(II) 28.4 percent of residents of the United States in grade 8;

''(iii) Native Hawaiians have the highest prevalence of binge drinking of 19.9 percent,

which is 21 percent higher than the prevalence for the total population of the State (16.5 percent);

''(iv) the prevalence of heavy drinking among Native Hawaiians (10.1 percent) is 36 percent higher than the prevalence for the total population of the State (7.4 percent);

''(v)(I) in 2003, 17.2 percent of Native Hawaiians in grade 6, 45.1 percent of Naive Hawaiians in grade 8, 68.9 percent of Native Hawaiians in grade 10, and 78.1 percent of Native Hawaiians in grade 12 reported using alcohol at least once in their lifetime, as compared to 13.2, 36.8, 59.1, and 72.5 percent, respectively, of all adolescents in the State; and

''(II) 62.1 percent Native Hawaiians in grade 12 reported being drunk at least once, which is 20 percent higher than the percentage for all adolescents in the State (51.6 percent);

''(vi) on entering grade 12, 60 percent of Native Hawaiian adolescents reported having used illicit drugs, including inhalants, at least once in their lifetime, as compared to—

''(I) 46.9 percent of all adolescents in the State; and

''(II) 52.8 of adolescents in the United States;

''(vii) on entering grade 12, 58.2 percent of Native Hawaiian adolescents reported having used marijuana at least once, which is 31 percent higher than the rate of other adolescents in the State (44.4 percent);

''(viii) in 2006, Native Hawaiians represented 40 percent of the total admissions to substance abuse treatment programs funded by the State Department of Health; and

''(ix) in 2003, Native Hawaiian adolescents reported the highest prevalence for methamphetamine use in the State, followed by Caucasian and Filipino adolescents.

''(B) CRIME.—With respect to crime—

''(i) during the period of 1992 to 2002, Native Hawaiian arrests for violent crimes decreased, but the rate of arrest remained 38.3 percent higher than the rate of the total population of the State;

''(ii) the robbery arrest rate in 2002 among Native Hawaiian juveniles and adults was 59 percent higher (6.2 arrests per 100,000 residents) than the rate for the total population of the State (3.9 arrests per 100,000 residents);

''(iii) in 2002—

''(I) Native Hawaiian men comprised between 35 percent and 43 percent of each security class in the State prison system;

''(II) Native Hawaiian women comprised between 38.1 percent to 50.3 percent of each class of female prison inmates in the State;

''(III) Native Hawaiians comprised 39.5 percent of the total incarcerated population of the State; and

''(IV) Native Hawaiians comprised 40 percent of the total sentenced felon population in the State, as compared to 25 percent for Caucasians, 12 percent for Filipinos, and 5 percent for Samoans;

''(iv) Native Hawaiians are overrepresented in the State prison population;

''(v) of the 2,260 incarcerated Native Hawaiians, 70 percent are between 20 and 40 years of age; and

''(vi) based on anecdotal information, Native Hawaiians are estimated to comprise between 60 percent and 70 percent of all jail and prison inmates in the State.

''(C) DEPRESSION AND SUICIDE.—With respect to depression and suicide—

''(i)(I) in 1999, the prevalence of depression among Native Hawaiians was 15 percent, as compared to the national average of approximately 10 percent; and

''(II) Native Hawaiian females had a higher prevalence of depression (16.9 percent) than Native Hawaiian males (11.9 percent);

''(ii) in 2000—

''(I) Native Hawaiian adolescents had a significantly higher suicide attempt rate (12.9 percent) than the rate for other adolescents in the State (9.6 percent); and

''(II) 39 percent of all Native Hawaiian adult deaths were due to suicide; and

''(iii) in 2006, the prevalence of obsessive compulsive disorder among Native Hawaiian adolescent girls was 17.7 percent, as compared to a rate of—

''(I) 9.2 percent for Native Hawaiian boys and non-Hawaiian girls; and

''(II) a national rate of 2 percent.

''(8) OVERWEIGHTNESS AND OBESITY.—With respect to overweightness and obesity—

''(A) during the period of 2000 through 2003, Native Hawaiian males and females had the highest age-adjusted prevalence rates for obesity (40.5 and 32.5 percent, respectively), which was—

''(i) with respect to individuals of full Native Hawaiian ancestry, 145 percent higher than the rate for the total population of the State (16.5 per 100,000); and

''(ii) with respect to individuals with less than 100 percent Native Hawaiian ancestry, 97 percent higher than the total population of the State; and

''(B) for 2005, the prevalence of obesity among Native Hawaiians was 43.1 percent, which was 119 percent higher than the prevalence for the total population of the State (19.7 percent).

''(9) FAMILY AND CHILD HEALTH.—With respect to family and child health—

''(A) in 2000, the prevalence of single-parent families with minor children was highest among Native Hawaiian households, as compared to all households in the State (15.8 percent and 8.1 percent, respectively);

''(B) in 2002, nonmarital births accounted for 56.8 percent of all live births among Native Hawaiians, as compared to 34 percent of all live births in the State;

''(C) the rate of confirmed child abuse and neglect among Native Hawaiians has consistently been 3 to 4 times the rates of other major ethnic groups, with a 3-year average of 63.9 cases in 2002, as compared to 12.8 cases for the total population of the State;

''(D) spousal abuse or abuse of an intimate partner was highest for Native Hawaiians, as compared to all cases of abuse in the State (4.5 percent and 2.2 percent, respectively); and

''(E)(i) ½ of uninsured adults in the State have family incomes below 200 percent of the Federal poverty level; and

''(ii) Native Hawaiians residing in the State and the continental United States have a higher rate of uninsurance than other ethnic groups in the State and continental United States (14.5 percent and 9.5 percent, respectively).

''(10) HEALTH PROFESSIONS EDUCATION AND TRAINING.—With respect to health professions education and training—

''(A) in 2003, adult Native Hawaiians had a higher rate of high school completion, as compared to the total adult population of the State (49.4 percent and 34.4 percent, respectively);

''(B) Native Hawaiian physicians make up 4 percent of the total physician workforce in the State; and

''(C) in 2004, Native Hawaiians comprised—

''(i) 11.25 percent of individuals who earned bachelor's degrees;

''(ii) 6 percent of individuals who earned master's degrees;

''(iii) 3 percent of individuals who earned doctorate degrees;

''(iv) 7.9 percent of the credited student body at the University of Hawai'i;

''(v) 0.4 percent of the instructional faculty at the University of Hawai'i at Manoa; and

''(vi) 8.4 percent of the instructional faculty at the University of Hawai'i Community Colleges.

**''SEC. 3. DEFINITIONS.**

''In this Act:

''(1) DEPARTMENT.—The term 'Department' means the Department of Health and Human Services.

''(2) DISEASE PREVENTION.—The term 'disease prevention' includes—

''(A) immunizations;

''(B) control of high blood pressure;

''(C) control of sexually transmittable diseases;

''(D) prevention and control of chronic diseases;

''(E) control of toxic agents;

''(F) occupational safety and health;

''(G) injury prevention;

''(H) fluoridation of water;

''(I) control of infectious agents; and

''(J) provision of mental health care.

''(3) HEALTH PROMOTION.—The term 'health promotion' includes—

''(A) pregnancy and infant care, including prevention of fetal alcohol syndrome;

''(B) cessation of tobacco smoking;

''(C) reduction in the misuse of alcohol and harmful illicit drugs;

''(D) improvement of nutrition;

''(E) improvement in physical fitness;

''(F) family planning;

''(G) control of stress;

''(H) reduction of major behavioral risk factors and promotion of healthy lifestyle practices; and

''(I) integration of cultural approaches to health and well-being (including traditional practices relating to the atmosphere (lewa lani), land ('aina), water (wai), and ocean (kai)).

''(4) HEALTH SERVICE.—The term 'health service' means—

''(A) service provided by a physician, physician's assistant, nurse practitioner, nurse, dentist, or other health professional;

''(B) a diagnostic laboratory or radiologic service;

''(C) a preventive health service (including a perinatal service, well child service, family planning service, nutrition service, home health service, sports medicine and athletic training service, and, generally, any service associated with enhanced health and wellness);

''(D) emergency medical service, including a service provided by a first responder, emergency medical technician, or mobile intensive care technician;

''(E) a transportation service required for adequate patient care;

''(F) a preventive dental service;

''(G) a pharmaceutical and medicament service;

''(H) a mental health service, including a service provided by a psychologist or social worker;

''(I) a genetic counseling service;

''(J) a health administration service, including a service provided by a health program administrator;

''(K) a health research service, including a service provided by an individual with an advanced degree in medicine, nursing, psychology, social work, or any other related health program;

''(L) an environmental health service, including a service provided by an epidemiologist, public health official, medical geographer, or medical anthropologist, or an individual specializing in biological, chemical, or environmental health determinants;

''(M) a primary care service that may lead to specialty or tertiary care; and

''(N) a complementary healing practice, including a practice performed by a traditional Native Hawaiian healer.

''(5) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is Kanaka Maoli (a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State), as evidenced by—

''(A) genealogical records;

''(B) kama'aina witness verification from Native Hawaiian Kupuna (elders); or

''(C) birth records of the State or any other State or territory of the United States.

''(6) NATIVE HAWAIIAN HEALTH CARE SYSTEM.—The term 'Native Hawaiian health care system' means any of up to 8 entities in the State that—

''(A) is organized under the laws of the State;

''(B) provides or arranges for the provision of health services for Native Hawaiians in the State;

''(C) is a public or nonprofit private entity;

''(D) has Native Hawaiians significantly participating in the planning, management, provision, monitoring, and evaluation of health services;

''(E) addresses the health care needs of an island's Native Hawaiian population; and

''(F) is recognized by Papa Ola Lokahi—

''(i) for the purpose of planning, conducting, or administering programs, or portions of programs, authorized by this Act for the benefit of Native Hawaiians; and

''(ii) as having the qualifications and the capacity to provide the services and meet the requirements under—

''(I) the contract that each Native Hawaiian health care system enters into with the Secretary under this Act; or

''(II) the grant each Native Hawaiian health care system receives from the Secretary under this Act.

''(7) NATIVE HAWAIIAN HEALTH CENTER.—The term 'Native Hawaiian Health Center' means any organization that is a primary health care provider that—

''(A) has a governing board composed of individuals, at least 50 percent of whom are Native Hawaiians;

''(B) has demonstrated cultural competency in a predominantly Native Hawaiian community;

''(C) serves a patient population that—

''(i) is made up of individuals at least 50 percent of whom are Native Hawaiian; or

''(ii) has not less than 2,500 Native Hawaiians as annual users of services; and

''(D) is recognized by Papa Ola Lokahi as having met each of the criteria described in subparagraphs (A) through (C).

''(8) NATIVE HAWAIIAN HEALTH TASK FORCE.—The term 'Native Hawaiian Health Task Force' means a task force established by the State Council of Hawaiian Homestead Associations to implement health and wellness strategies in Native Hawaiian communities.

''(9) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' means any organization that—

''(A) serves the interests of Native Hawaiians; and

''(B)(i) is recognized by Papa Ola Lokahi for planning, conducting, or administering programs authorized under this Act for the benefit of Native Hawaiians; and

''(ii) is a public or nonprofit private entity.

''(10) OFFICE OF HAWAIIAN AFFAIRS.—The term 'Office of Hawaiian Affairs' means the governmental entity that—

''(A) is established under article XII, sections 5 and 6, of the Hawai'i State Constitution; and

''(B) charged with the responsibility to formulate policy relating to the affairs of Native Hawaiians.

''(11) PAPA OLA LOKAHI.—

''(A) IN GENERAL.—The term 'Papa Ola Lokahi' means an organization that—

''(i) is composed of public agencies and private organizations focusing on improving the health status of Native Hawaiians; and

''(ii) governed by a board the members of which may include representation from—

''(I) E Ola Mau;

''(II) the Office of Hawaiian Affairs;

''(III) Alu Like, Inc.;

''(IV) the University of Hawaii;

''(V) the Hawai'i State Department of Health;

''(VI) the Native Hawaiian Health Task Force;

''(VII) the Hawai'i State Primary Care Association;

''(VIII) Ahahui O Na Kauka, the Native Hawaiian Physicians Association;

''(IX) Ho'ola Lahui Hawaii, or a health care system serving the islands of Kaua'i or Ni'ihau (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands);

''(X) Ke Ola Mamo, or a health care system serving the island of O'ahu (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island);

''(XI) Na Pu'uwai or a health care system serving the islands of Moloka'i or Lana'i (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands);

''(XII) Hui No Ke Ola Pono, or a health care system serving the island of Maui (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island);

''(XIII) Hui Malama Ola Na 'Oiwi, or a health care system serving the island of Hawai'i (which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island);

''(XIV) such other Native Hawaiian health care systems as are certified and recognized by Papa Ola Lokahi in accordance with this Act; and

''(XV) such other member organizations as the Board of Papa Ola Lokahi shall admit from time to time, based on satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians.

''(B) EXCLUSION.—The term 'Papa Ola Lokahi' does not include any organization described in subparagraph (A) for which the Secretary has made a determination that the organization has not developed a mission statement that includes—

''(i) clearly-defined goals and objectives for the contributions the organization will make to—

''(I) Native Hawaiian health care systems; and

''(II) the national policy described in section 4; and

''(ii) an action plan for carrying out those goals and objectives.

''(12) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(13) STATE.—The term 'State' means the State of Hawaii.

''(14) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term 'traditional Native Hawaiian healer' means a practitioner—

''(A) who—

''(i) is of Native Hawaiian ancestry; and

''(ii) has the knowledge, skills, and experience in direct personal health care of individuals; and

''(B) the knowledge, skills, and experience of whom are based on demonstrated learning of Native Hawaiian healing practices acquired by—

''(i) direct practical association with Native Hawaiian elders; and

''(ii) oral traditions transmitted from generation to generation.

**''SEC. 4. DECLARATION OF NATIONAL NATIVE HAWAIIAN HEALTH POLICY.**

''(a) DECLARATION.—Congress declares that it is the policy of the United States, in fulfillment of special responsibilities and legal obligations of the United States to the indigenous people of Hawai'i resulting from the unique and historical relationship between the United States and the indigenous people of Hawaii—

''(1) to raise the health status of Native Hawaiians to the highest practicable health level; and

''(2) to provide Native Hawaiian health care programs with all resources necessary to effectuate that policy.

''(b) INTENT OF CONGRESS.—It is the intent of Congress that—

''(1) health care programs having a demonstrated effect of substantially reducing or eliminating the overrepresentation of Native Hawaiians among those suffering from chronic and acute disease and illness, and addressing the health needs of Native Hawaiians (including perinatal, early child development, and family-based health education needs), shall be established and implemented; and

''(2) the United States—

''(A) raise the health status of Native Hawaiians by the year 2010 to at least the levels described in the goals contained within Healthy People 2010 (or successor standards); and

''(B) incorporate within health programs in the United States activities defined and identified by Kanaka Maoli, such as—

''(i) incorporating and supporting the integration of cultural approaches to health and well-being, including programs using traditional practices relating to the atmosphere (lewa lani), land ('aina), water (wai), or ocean (kai);

''(ii) increasing the number of Native Hawaiian health and allied-health providers who provide care to or have an impact on the health status of Native Hawaiians;

''(iii) increasing the use of traditional Native Hawaiian foods in—

''(I) the diets and dietary preferences of people, including those of students; and

''(II) school feeding programs;

''(iv) identifying and instituting Native Hawaiian cultural values and practices within the corporate cultures of organizations and agencies providing health services to Native Hawaiians;

''(v) facilitating the provision of Native Hawaiian healing practices by Native Hawaiian healers for individuals desiring that assistance;

''(vi) supporting training and education activities and programs in traditional Native Hawaiian healing practices by Native Hawaiian healers; and

''(vii) demonstrating the integration of health services for Native Hawaiians, particularly those that integrate mental, physical, and dental services in health care.

''(c) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to Congress under section 12, a report on the progress made toward meeting the national policy described in this section.

**''SEC. 5. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS.**

''(a) DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of coordinating, implementing, and updating a Native Hawaiian comprehensive health care master plan that is designed—

''(A) to promote comprehensive health promotion and disease prevention services;

''(B) to maintain and improve the health status of Native Hawaiians; and

''(C) to support community-based initiatives that are reflective of holistic approaches to health.

''(2) CONSULTATION.—

''(A) IN GENERAL.—In carrying out this section, Papa Ola Lokahi and the Office of Hawaiian Affairs shall consult with representatives of—

''(i) the Native Hawaiian health care systems;

''(ii) the Native Hawaiian health centers; and

''(iii) the Native Hawaiian community.

''(B) MEMORANDA OF UNDERSTANDING.—Papa Ola Lokahi and the Office of Hawaiian Affairs may enter into memoranda of understanding or agreement for the purpose of acquiring joint funding, or for such other purposes as are necessary, to accomplish the objectives of this section.

''(3) HEALTH CARE FINANCING STUDY REPORT.—

''(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Native Hawaiian Health Care Improvement Reauthorization Act of 2009, Papa Ola Lokahi, in cooperation with the Office of Hawaiian Affairs and other appropriate agencies and organizations in the State (including the Department of Health and the Department of Human Services of the State) and appropriate Federal agencies (including the Centers for Medicare and Medicaid Services), shall submit to Congress a report that describes the impact of Federal and State health care financing mechanisms and policies on the health and well-being of Native Hawaiians.

''(B) COMPONENTS.—The report shall include—

''(i) information concerning the impact on Native Hawaiian health and well-being of—

''(I) cultural competency;

''(II) risk assessment data;

''(III) eligibility requirements and exemptions; and

''(IV) reimbursement policies and capitation rates in effect as of the date of the report for service providers;

''(ii) such other similar information as may be important to improving the health status of Native Hawaiians, as that information relates to health care financing (including barriers to health care); and

''(iii) recommendations for submission to the Secretary, for review and consultation with the Native Hawaiian community.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (a).

**''SEC. 6. FUNCTIONS OF PAPA OLA LOKAHI.**

''(a) IN GENERAL.—Papa Ola Lokahi—

''(1) shall be responsible for—

''(A) the coordination, implementation, and updating, as appropriate, of the comprehensive health care master plan under section 5;

''(B) the training and education of individuals providing health services;

''(C) the identification of and research (including behavioral, biomedical, epidemiological, and health service research) into the diseases that are most prevalent among Native Hawaiians; and

''(D) the development and maintenance of an institutional review board for all research projects involving all aspects of Native Hawaiian health, including behavioral, biomedical, epidemiological, and health service research;

''(2) may receive special project funds (including research endowments under section 736 of the Public Health Service Act (42 U.S.C. 293)) made available for the purpose of—

''(A) research on the health status of Native Hawaiians; or

''(B) addressing the health care needs of Native Hawaiians; and

''(3) shall serve as a clearinghouse for—

''(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

''(B) the identification and research into diseases affecting Native Hawaiians;

''(C) the availability of Native Hawaiian project funds, research projects, and publications;

''(D) the collaboration of research in the area of Native Hawaiian health; and

''(E) the timely dissemination of information pertinent to the Native Hawaiian health care systems.

''(b) CONSULTATION.—

''(1) IN GENERAL.—The Secretary and the Secretary of each other Federal agency shall—

''(A) consult with Papa Ola Lokahi; and

''(B) provide Papa Ola Lokahi and the Office of Hawaiian Affairs, at least once annually, an accounting of funds and services provided by the Secretary to assist in accomplishing the purposes described in section 4.

''(2) COMPONENTS OF ACCOUNTING.—The accounting under paragraph (1)(B) shall include an identification of—

''(A) the amount of funds expended explicitly for and benefitting Native Hawaiians;

''(B) the number of Native Hawaiians affected by those funds;

''(C) the collaborations between the applicable Federal agency and Native Hawaiian groups and organizations in the expenditure of those funds; and

''(D) the amount of funds used for—

''(i) Federal administrative purposes; and

''(ii) the provision of direct services to Native Hawaiians.

''(c) FISCAL ALLOCATION AND COORDINATION OF PROGRAMS AND SERVICES.—

''(1) RECOMMENDATIONS.—Papa Ola Lokahi shall provide annual recommendations to the Secretary with respect to the allocation of all amounts made available under this Act.

''(2) COORDINATION.—Papa Ola Lokahi shall, to the maximum extent practicable, coordinate and assist the health care programs and services provided to Native Hawaiians under this Act and other Federal laws.

''(3) REPRESENTATION ON COMMISSION.—The Secretary, in consultation with Papa Ola Lokahi, shall make recommendations for Native Hawaiian representation on the President's Advisory Commission on Asian Americans and Pacific Islanders.

''(d) TECHNICAL SUPPORT.—Papa Ola Lokahi shall provide statewide infrastructure to provide technical support and coordination of training and technical assistance to—

''(1) the Native Hawaiian health care systems; and

''(2) the Native Hawaiian health centers.

''(e) RELATIONSHIPS WITH OTHER AGENCIES.—

''(1) AUTHORITY.—Papa Ola Lokahi may enter into agreements or memoranda of understanding with relevant institutions, agencies, or organizations that are capable of providing—

''(A) health-related resources or services to Native Hawaiians and the Native Hawaiian health care systems; or

''(B) resources or services for the implementation of the national policy described in section 4.

''(2) HEALTH CARE FINANCING.—

''(A) FEDERAL CONSULTATION.—

''(i) IN GENERAL.—Before adopting any policy, rule, or regulation that may affect the provision of services or health insurance coverage for Native Hawaiians, a Federal agency that provides health care financing and carries out health care programs (including the Centers for Medicare and Medicaid Services) shall consult with representatives of—

''(I) the Native Hawaiian community;

''(II) Papa Ola Lokahi; and

''(III) organizations providing health care services to Native Hawaiians in the State.

''(ii) IDENTIFICATION OF EFFECTS.—Any consultation by a Federal agency under clause (i) shall include an identification of the effect of any policy, rule, or regulation proposed by the Federal agency.

''(B) STATE CONSULTATION.—Before making any change in an existing program or implementing any new program relating to Native Hawaiian health, the State shall engage in meaningful consultation with representatives of—

''(i) the Native Hawaiian community;

''(ii) Papa Ola Lokahi; and

''(iii) organizations providing health care services to Native Hawaiians in the State.

''(C) CONSULTATION ON FEDERAL HEALTH INSURANCE PROGRAMS.—

''(i) IN GENERAL.—The Office of Hawaiian Affairs, in collaboration with Papa Ola Lokahi, may develop consultative, contractual, or other arrangements, including memoranda of understanding or agreement, with—

''(I) the Centers for Medicare and Medicaid Services;

''(II) the agency of the State that administers or supervises the administration of the State plan or waiver approved under title XVIII, XIX, or XXI of the Social Security Act (42 U.S.C. 1395 et seq.) for the payment of all or a part of the health care services provided to Native Hawaiians who are eligible for medical assistance under the State plan or waiver; or

''(III) any other Federal agency providing full or partial health insurance to Native Hawaiians.

''(ii) CONTENTS OF ARRANGEMENTS.—An arrangement under clause (i) may address—

''(I) appropriate reimbursement for health care services, including capitation rates and fee-for-service rates for Native Hawaiians who are entitled to or eligible for insurance;

''(II) the scope of services; or

''(III) other matters that would enable Native Hawaiians to maximize health insurance benefits provided by Federal and State health insurance programs.

''(3) TRADITIONAL HEALERS.—

''(A) IN GENERAL.—The provision of health services under any program operated by the Department or another Federal agency (including the Department of Veterans Affairs) may include the services of—

''(i) traditional Native Hawaiian healers; or

''(ii) traditional healers providing traditional health care practices (as those terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(B) EXEMPTION.—Services described in subparagraph (A) shall be exempt from national accreditation reviews, including reviews conducted by—

''(i) the Joint Commission on Accreditation of Healthcare Organizations; and

''(ii) the Commission on Accreditation of Rehabilitation Facilities.

**''SEC. 7. NATIVE HAWAIIAN HEALTH CARE.**

''(a) COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND OTHER HEALTH SERVICES.—

''(1) GRANTS AND CONTRACTS.—The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into

contracts with 1 or more Native Hawaiian health care systems for the purpose of providing comprehensive health promotion and disease prevention services, as well as other health services, to Native Hawaiians who desire and are committed to bettering their own health.

''(2) LIMITATION ON NUMBER OF ENTITIES.—The Secretary may make a grant to, or enter into a contract with, not more than 8 Native Hawaiian health care systems under this subsection for any fiscal year.

''(b) PLANNING GRANT OR CONTRACT.—In addition to grants and contracts under subsection (a), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on each of the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, Kaho'lawe, and Ni'ihau in the State.

''(c) HEALTH SERVICES TO BE PROVIDED.—

''(1) IN GENERAL.—Each recipient of funds under subsection (a) may provide or arrange for—

''(A) outreach services to inform and assist Native Hawaiians in accessing health services;

''(B) education in health promotion and disease prevention for Native Hawaiians that, wherever practicable, is provided by—

''(i) Native Hawaiian health care practitioners;

''(ii) community outreach workers;

''(iii) counselors;

''(iv) cultural educators; and

''(v) other disease prevention providers;

''(C) services of individuals providing health services;

''(D) collection of data relating to the prevention of diseases and illnesses among Native Hawaiians; and

''(E) support of culturally appropriate activities that enhance health and wellness, including land-based, water-based, ocean-based, and spiritually-based projects and programs.

''(2) TRADITIONAL HEALERS.—The health care services referred to in paragraph (1) that are provided under grants or contracts under subsection (a) may be provided by traditional Native Hawaiian healers, as appropriate.

''(d) FEDERAL TORT CLAIMS ACT.—An individual who provides a medical, dental, or other service referred to in subsection (a)(1) for a Native Hawaiian health care system, including a provider of a traditional Native Hawaiian healing service, shall be—

''(1) treated as if the individual were a member of the Public Health Service; and

''(2) subject to section 224 of the Public Health Service Act (42 U.S.C. 233).

''(e) SITE FOR OTHER FEDERAL PAYMENTS.—

''(1) IN GENERAL.—A Native Hawaiian health care system that receives funds under subsection (a) may serve as a Federal loan repayment facility.

''(2) REMISSION OF PAYMENTS.—A facility described in paragraph (1) shall be designed to enable health and allied-health professionals to remit payments with respect to loans provided to the professionals under any Federal loan program.

''(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary shall not make a grant to, or enter into a contract with, an entity under subsection (a) unless the entity agrees that amounts received under the grant or contract will not, directly or through contract, be expended—

''(1) for any service other than a service described in subsection (c)(1);

''(2) to purchase or improve real property (other than minor remodeling of existing improvements to real property); or

''(3) to purchase major medical equipment.

''(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary shall not make a grant to, or enter into a contract with, an entity under subsection (a) unless the entity agrees that, whether health services are provided directly or under a contract—

''(1) any health service under the grant or contract will be provided without regard to the ability of an individual receiving the health service to pay for the health service; and

''(2) the entity will impose for the delivery of such a health service a charge that is—

''(A) made according to a schedule of charges that is made available to the public; and

''(B) adjusted to reflect the income of the individual involved.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) GENERAL GRANTS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (a) for each of fiscal years 2009 through 2014.

''(2) PLANNING GRANTS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (b) for each of fiscal years 2009 through 2014.

''(3) HEALTH SERVICES.—There are authorized to be appropriated such sums as are necessary to carry out subsection (c) for each of fiscal years 2009 through 2014.

**''SEC. 8. ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI.**

''(a) IN GENERAL.—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

''(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed under section 5;

''(2) training and education for providers of health services;

''(3) identification of and research (including behavioral, biomedical, epidemiologic, and health service research) into the diseases that are most prevalent among Native Hawaiians;

''(4) a clearinghouse function for—

''(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

''(B) the identification and research into diseases affecting Native Hawaiians; and

''(C) the availability of Native Hawaiian project funds, research projects, and publications;

''(5) the establishment and maintenance of an institutional review board for all health-related research involving Native Hawaiians;

''(6) the coordination of the health care programs and services provided to Native Hawaiians; and

''(7) the administration of special project funds.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out subsection (a) for each of fiscal years 2009 through 2014.

**''SEC. 9. ADMINISTRATION OF GRANTS AND CONTRACTS.**

''(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of the grant or contract are achieved.

''(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

''(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary shall not make a grant or enter into a contract under this Act with an entity unless the entity—

''(1) agrees to establish such procedures for fiscal control and fund accounting as the Secretary determines are necessary to ensure proper disbursement and accounting with respect to the grant or contract;

''(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

''(3) with respect to providing health services to any population of Native Hawaiians, a substantial portion of which has a limited ability to speak the English language—

''(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

''(B) has designated at least 1 individual who is fluent in English and the appropriate language to assist in carrying out the plan;

''(4) with respect to health services that are covered under a program under title XVIII, XIX, or XXI of the Social Security Act (42 U.S.C. 1395 et seq.) (including any State plan), or under any other Federal health insurance plan—

''(A) if the entity will provide under the grant or contract any of those health services directly—

''(i) has entered into a participation agreement under each such plan; and

''(ii) is qualified to receive payments under the plan; and

''(B) if the entity will provide under the grant or contract any of those health services through a contract with an organization—

''(i) ensures that the organization has entered into a participation agreement under each such plan; and

''(ii) ensures that the organization is qualified to receive payments under the plan; and

''(5) agrees to submit to the Secretary and Papa Ola Lokahi an annual report that—

''(A) describes the use and costs of health services provided under the grant or contract (including the average cost of health services per user); and

''(B) provides such other information as the Secretary determines to be appropriate.

''(d) CONTRACT EVALUATION.—

''(1) DETERMINATION OF NONCOMPLIANCE.—If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 7, the Secretary shall, before renewing the contract—

''(A) attempt to resolve the areas of noncompliance or unsatisfactory performance; and

''(B) modify the contract to prevent future occurrences of the noncompliance or unsatisfactory performance.

''(2) NONRENEWAL.—If the Secretary determines that the noncompliance or unsatisfactory performance described in paragraph (1) with respect to an entity cannot be resolved and prevented in the future, the Secretary—

''(A) shall not renew the contract with the entity; and

''(B) may enter into a contract under section 7 with another entity referred to in section 7(a)(3) that provides services to the same population of Native Hawaiians served by the entity the contract with which was not renewed by reason of this paragraph.

''(3) CONSIDERATION OF RESULTS.—In determining whether to renew a contract entered into with an entity under this Act, the Secretary shall consider the results of the evaluations conducted under this section.

''(4) APPLICATION OF FEDERAL LAWS.—Each contract entered into by the Secretary under

this Act shall be in accordance with all Federal contracting laws (including regulations), except that, in the discretion of the Secretary, such a contract may—

''(A) be negotiated without advertising; and

''(B) be exempted from subchapter III of chapter 31, United States Code.

''(5) PAYMENTS.—A payment made under any contract entered into under this Act—

''(A) may be made—

''(i) in advance;

''(ii) by means of reimbursement; or

''(iii) in installments; and

''(B) shall be made on such conditions as the Secretary determines to be necessary to carry out this Act.

''(e) REPORT.—

''(1) IN GENERAL.—For each fiscal year during which an entity receives or expends funds under a grant or contract under this Act, the entity shall submit to the Secretary and to Papa Ola Lokahi an annual report that describes—

''(A) the activities conducted by the entity under the grant or contract;

''(B) the amounts and purposes for which Federal funds were expended; and

''(C) such other information as the Secretary may request.

''(2) AUDITS.—The reports and records of any entity concerning any grant or contract under this Act shall be subject to audit by—

''(A) the Secretary;

''(B) the Inspector General of the Department of Health and Human Services; and

''(C) the Comptroller General of the United States.

''(f) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this Act the cost of an annual private audit conducted by a certified public accountant to carry out this section.

**''SEC. 10. ASSIGNMENT OF PERSONNEL.**

''(a) IN GENERAL.—The Secretary may enter into an agreement with Papa Ola Lokahi or any of the Native Hawaiian health care systems for the assignment of personnel of the Department of Health and Human Services with relevant expertise for the purpose of—

''(1) conducting research; or

''(2) providing comprehensive health promotion and disease prevention services and health services to Native Hawaiians.

''(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under subsection (a) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

**''SEC. 11. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS AND FELLOWSHIPS.**

''(a) ELIGIBILITY.—Subject to the availability of amounts appropriated under subsection (c), the Secretary shall provide to Papa Ola Lokahi, through a direct grant or a cooperative agreement, funds for the purpose of providing scholarship and fellowship assistance, counseling, and placement service assistance to students who are Native Hawaiians.

''(b) PRIORITY.—A priority for scholarships under subsection (a) may be provided to employees of—

''(1) the Native Hawaiian Health Care Systems; and

''(2) the Native Hawaiian Health Centers.

''(c) TERMS AND CONDITIONS.—

''(1) SCHOLARSHIP ASSISTANCE.—

''(A) IN GENERAL.—The scholarship assistance under subsection (a) shall be provided in accordance with subparagraphs (B) through (G).

''(B) NEED.—The provision of scholarships in each type of health profession training shall correspond to the need for each type of health professional to serve the Native Hawaiian community in providing health services, as identified by Papa Ola Lokahi.

''(C) ELIGIBLE APPLICANTS.—To the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by Papa Ola Lokahi.

''(D) OBLIGATED SERVICE REQUIREMENT.—

''(i) IN GENERAL.—An obligated service requirement for each scholarship recipient (except for a recipient receiving assistance under paragraph (2)) shall be fulfilled through service, in order of priority, in—

''(I) any of the Native Hawaiian health care systems;

''(II) any of the Native Hawaiian health centers;

''(III) 1 or more health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the Public Health Service in the State;

''(IV) a Native Hawaiian organization that serves a geographical area, facility, or organization that serves a significant Native Hawaiian population;

''(V) any public agency or nonprofit organization providing services to Native Hawaiians; or

''(VI) any of the uniformed services of the United States.

''(ii) ASSIGNMENT.—The placement service for a scholarship shall assign each Native Hawaiian scholarship recipient to 1 or more appropriate sites for service in accordance with clause (i).

''(E) COUNSELING, RETENTION, AND SUPPORT SERVICES.—The provision of academic and personal counseling, retention and other support services—

''(i) shall not be limited to scholarship recipients under this section; and

''(ii) shall be made available to recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs.

''(F) FINANCIAL ASSISTANCE.—After consultation with Papa Ola Lokahi, financial assistance may be provided to a scholarship recipient during the period that the recipient is fulfilling the service requirement of the recipient in any of—

''(i) the Native Hawaiian health care systems; or

''(ii) the Native Hawaiians health centers.

''(G) DISTANCE LEARNING RECIPIENTS.—A scholarship may be provided to a Native Hawaiian who is enrolled in an appropriate distance learning program offered by an accredited educational institution.

''(2) FELLOWSHIPS.—

''(A) IN GENERAL.—Papa Ola Lokahi may provide financial assistance in the form of a fellowship to a Native Hawaiian health professional who is—

''(i) a Native Hawaiian community health representative, outreach worker, or health program administrator in a professional training program;

''(ii) a Native Hawaiian providing health services; or

''(iii) a Native Hawaiian enrolled in a certificated program provided by traditional Native Hawaiian healers in any of the traditional Native Hawaiian healing practices (including lomi-lomi, la'au lapa'au, and ho'oponopono).

''(B) TYPES OF ASSISTANCE.—Assistance under subparagraph (A) may include a stipend for, or reimbursement for costs associated with, participation in a program described in that paragraph.

''(3) RIGHTS AND BENEFITS.—An individual who is a health professional designated in section 338A of the Public Health Service Act (42 U.S.C. 254*l*) who receives a scholarship under this subsection while fulfilling a service requirement under that Act shall retain the same rights and benefits as members of the National Health Service Corps during the period of service.

''(4) NO INCLUSION OF ASSISTANCE IN GROSS INCOME.—Financial assistance provided under this section shall be considered to be qualified scholarships for the purpose of section 117 of the Internal Revenue Code of 1986.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out subsections (a) and (c)(2) for each of fiscal years 2009 through 2014.

**''SEC. 12. REPORT.**

''For each fiscal year, the President shall, at the time at which the budget of the United States is submitted under section 1105 of title 31, United States Code, submit to Congress a report on the progress made in meeting the purposes of this Act, including—

''(1) a review of programs established or assisted in accordance with this Act; and

''(2) an assessment of and recommendations for additional programs or additional assistance necessary to provide, at a minimum, health services to Native Hawaiians, and ensure a health status for Native Hawaiians, that are at a parity with the health services available to, and the health status of, the general population.

**''SEC. 13. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.**

''(a) IN GENERAL.—The Secretary shall permit an organization that enters into a contract or receives grant under this Act to use in carrying out projects or activities under the contract or grant all existing facilities under the jurisdiction of the Secretary (including all equipment of the facilities), in accordance with such terms and conditions as may be agreed on for the use and maintenance of the facilities or equipment.

''(b) DONATION OF PROPERTY.—The Secretary may donate to an organization that enters into a contract or receives grant under this Act, for use in carrying out a project or activity under the contract or grant, any personal or real property determined to be in excess of the needs of the Department or the General Services Administration.

''(c) ACQUISITION OF SURPLUS PROPERTY.—The Secretary may acquire excess or surplus Federal Government personal or real property for donation to an organization under subsection (b) if the Secretary determines that the property is appropriate for use by the organization for the purpose for which a contract entered into or grant received by the organization is authorized under this Act.

**''SEC. 14. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.**

''(a) AUTHORITY AND AREAS OF INTEREST.—

''(1) IN GENERAL.—The Secretary, in consultation with Papa Ola Lokahi, may allocate amounts made available under this Act, or any other Act, to carry out Native Hawaiian demonstration projects of national significance.

''(2) AREAS OF INTEREST.—A demonstration project described in paragraph (1) may relate to such areas of interest as—

''(A) the development of a centralized database and information system relating to the health care status, health care needs, and wellness of Native Hawaiians;

''(B) the education of health professionals, and other individuals in institutions of higher learning, in health and allied health programs in healing practices, including Native Hawaiian healing practices;

''(C) the integration of Western medicine with complementary healing practices, including traditional Native Hawaiian healing practices;

''(D) the use of telehealth and telecommunications in—

''(i) chronic and infectious disease management; and

''(ii) health promotion and disease prevention;

''(E) the development of appropriate models of health care for Native Hawaiians and other indigenous people, including—

''(i) the provision of culturally competent health services;

''(ii) related activities focusing on wellness concepts;

''(iii) the development of appropriate kupuna care programs; and

''(iv) the development of financial mechanisms and collaborative relationships leading to universal access to health care; and

''(F) the establishment of—

''(i) a Native Hawaiian Center of Excellence for Nursing at the University of Hawai'i at Hilo;

''(ii) a Native Hawaiian Center of Excellence for Mental Health at the University of Hawai'i at Manoa;

''(iii) a Native Hawaiian Center of Excellence for Maternal Health and Nutrition at the Waimanalo Health Center;

''(iv) a Native Hawaiian Center of Excellence for Research, Training, Integrated Medicine at Molokai General Hospital; and

''(v) a Native Hawaiian Center of Excellence for Complementary Health and Health Education and Training at the Waianae Coast Comprehensive Health Center.

''(3) CENTERS OF EXCELLENCE.—Papa Ola Lokahi, and any centers established under paragraph (2)(F), shall be considered to be qualified as Centers of Excellence under sections 485F and 903(b)(2)(A) of the Public Health Service Act (42 U.S.C. 287c–32, 299a–1).

''(b) NONREDUCTION IN OTHER FUNDING.—The allocation of funds for demonstration projects under subsection (a) shall not result in any reduction in funds required by the Native Hawaiian health care systems, the Native Hawaiian Health Centers, the Native Hawaiian Health Scholarship Program, or Papa Ola Lokahi to carry out the respective responsibilities of those entities under this Act.

**''SEC. 15. RULE OF CONSTRUCTION.**

''Nothing in this Act restricts the authority of the State to require licensing of, and issue licenses to, health practitioners.

**''SEC. 16. COMPLIANCE WITH BUDGET ACT.**

''Any new spending authority described in subparagraph (A) or (B) of section 401(c)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2)) that is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided for in Acts of appropriation.

**''SEC. 17. SEVERABILITY.**

''If any provision of this Act, or the application of any such provision to any person or circumstance, is determined by a court of competent jurisdiction to be invalid, the remainder of this Act, and the application of the provision to a person or circumstance other than that to which the provision is held invalid, shall not be affected by that holding.''.

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By Mr. KERRY (for himself and Ms. SNOWE):

S. 77. A bill to amend title XXI of the Social Security Act to provide for equal coverage of mental health services under the State Children's Health Insurance Program; to the Committee on Finance.

Mr. KERRY. Mr. President, it is my great hope that Congress will move this year to see that the successful, bipartisan State Children's Health Insurance Program, SCHIP, is allowed the opportunity to fulfill its promise to the low-income children of this country. For over 11 years it has provided, along with Medicaid, the type of meaningful and affordable health insurance coverage that each and every American child deserves. Yet there is much work to be done to improve this program, and the reauthorization of SCHIP gives us the opportunity to expand these successful programs to many of the nine million uninsured children in the country today, starting with the 6 million that are already eligible for public programs but not yet enrolled.

While expanding coverage to the uninsured is our top priority, it is equally important to ensure that the types of benefits offered to our Nation's children are quality services that are available when needed. Unfortunately, when it comes to mental health coverage, that is too often not the case today. Therefore, I am introducing today, along with Senator SNOWE, the Children's Mental Health Parity Act which provides for equal coverage of mental health care for all children enrolled in the State Children's Health Insurance Plan, SCHIP. This was passed as part of the SCHIP reauthorization last year, but unfortunately the bill was vetoed by President Bush.

I am encouraged by the passage of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act in October 2008. It is now time to extend the same parity in mental health coverage to our children that we give to adults. Mental illness is a critical problem for the young people in this country today. The numbers are startling. Mental disorders affect about one in five American children and up to 9 percent of kids experience serious emotional disturbances that severely impact their functioning. Low-income children, those the SCHIP program is designed to cover, have the highest rates of mental health problems.

Yet the sad reality is that an estimated ⅔ of all young people struggling with mental health disorders do not receive the care they need. We are failing our children when we do not provide appropriate treatment of mental health disorders. The consequences of this failure could not be more severe. Without early and effective intervention, affected children are less likely to do well in school and more likely to have compromised employment and earnings opportunities. Moreover, untreated mental illness may increase a child's risk of coming into contact with the juvenile justice system. Finally, children with mental disorders are at a much higher risk for suicide.

Unfortunately, many states' SCHIP programs are not providing the type of mental health care coverage that our most vulnerable children deserve. Many States impose discriminatory limits on mental health care coverage that do not apply to medical and surgical care. These can include caps on coverage of inpatient days and outpatient visits, as well as cost and testing restrictions that impair the ability of our physicians to make the best judgments for our kids.

The Children's Mental Health Parity Act would prohibit discriminatory limits on mental health care in SCHIP plans by directing that any financial requirements or treatment limitations that apply to mental health or substance abuse services must be no more restrictive than the financial requirements or treatment limits that apply to other medical services. This bill would also eliminate a harmful provision in current law that authorizes states to lower the amount of mental health coverage they provide to children to just 75 percent of the coverage provided in other health care plans used by states.

Many of the leading advocacy groups have endorsed the Children's Mental Health Parity Act, including Mental Health America, the American Academy of Child & Adolescent Psychiatry, the Bazelon Center for Mental Health Law, Fight Crime: Invest in Kids, The National Association for Children's Behavioral Health, the National Association of Psychiatric Health Systems, and the National Council for Community Behavioral Health care.

America's kids who are covered through SCHIP should be guaranteed that the mental health benefits they receive are just as comprehensive as those for medical and surgical care. It is no less important to care for our kids' mental health, and this unfair and unwise disparity should no longer be acceptable. As we debate many important features of the SCHIP program during reauthorization, I look forward to working with colleagues on both sides of the aisle to see that this important, bipartisan measure receives the support that it deserves.

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By Mr. KERRY (for himself and Ms. SNOWE):

S.78. A bill to amend the Internal Revenue Code of 1986 to provide a full exclusion for gain from certain small business stocks; to the Committee on Finance.

Mr. KERRY. Mr. President, our economy is in the midst of the worst economic downturn since since the Great Depression. We all realize that small businesses are the backbone of our economy. During these difficult times, many small businesses are having trouble accessing credit which leads to a decline in job creation and innovation.

Many of our most successful corporations started as small businesses, including AOL, Apple Computer, Compac Computer, Datastream, Evergreen Solar, Intel Corporations, and Sun Microsystems. As you can see from this partial list, many of these companies played an integral role in making the Internet a reality.

Today, Senator SNOWE and I are introducing the Invest in Small Business Act of 2009 to encourage private investment in small businesses by making changes to the existing partial exclusion for gain from certain small business stock.

Investing in small businesses is essential to turning around the economy. Not only will investment in small business spur job creation. it will lead to new technological breakthroughs. We are at an integral juncture in developing technology to address global climate change. I believe that small business will repeat the role it played at the vanguard of the computer revolution—by leading the Nation in developing the technologies to substantially reduce carbon emissions. Small businesses already are at the forefront of these industries, and we need to do everything we can to encourage investment in small businesses.

Back in 1993, I worked with Senator Bumpers to enact legislation to provide a 50 percent exclusion for gain for individuals from the sale of certain small business stock that is held for 5 years. This provision would provide a 50 percent exclusion for gain for individuals from the sale of certain small business stock that is held for 5 years. Since the enactment of this provision, the capital gains rate has been lowered twice without any changes to the exclusion. Due to the lower capital rates, this provision no longer provides a strong incentive for investment in small businesses.

The Invest in Small Business Act of 2009 makes several changes to the existing provision. This legislation increases the exclusion amount from 50 percent to 100 percent and decreases the holding period from 5 to 4 years. This bill would allow corporations to benefit from the provision as long as they own less than 25 percent of the small business corporation stock.

Currently, the exclusion is treated as a preference item for calculating the alternative minimum tax, AMT. The Invest in Small Business Act of 2009 would repeal the exclusion as an AMT preference item.

The Invest in Small Business Act of 2009 will provide an effective tax rate of 0 percent for the gain from the sale of certain small businesses. This lower capital gains rate will encourage investment in small businesses. In addition, the changes made by the Invest in Small Business Act of 2009 will make more taxpayers eligible for this provision.

I urge my colleagues to support the Invest in Small Business Act of 2009 which strengthens an existing tax incentive to provide an appropriate incentive to encourage innovation and entrepreneurship.

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By Mr. KERRY:

S. 79. A bill to amend the Social Security Act to establish a Federal Reinsurance Program for Catastrophic Health Care Costs; to the Committee on Finance.

Mr. KERRY. Mr. President, my home State of Massachusetts is setting an example for the rest of the country by taking bold steps to provide quality health coverage for everyone. Now it is time for Washington to do the same by bringing meaningful, affordable healthcare to the uninsured, in Massachusetts and across America.

In Massachusetts the cost of health care is a major obstacle to the overall goal of universal coverage. The problem of the uninsured can't be solved unless the issue of skyrocketing health costs to families and businesses is also tackled. And fully reforming the healthcare system requires that the Federal Government begin shouldering some of the burden to help alleviate costs.

Healthcare costs are highly concentrated in this country. The very few who suffer from catastrophic illness or injury drive costs up for everyone. One percent of patients account for 25 percent of healthcare costs, and 20 percent of patients account for 80 percent of costs. To make healthcare more affordable, we must find a better way to share the immense burden of insuring the chronically ill and seriously injured.

Part of the reason that businesses and health plans today fail to cover their workers is an aversion to risk. Patients who are catastrophically ill or injured often face the tragic combination of failing health and financial peril. But there's a way to combat these costs.

Congress should make employers and healthcare plans an offer they can't refuse. It's called ''reinsurance.'' Reinsurance provides a backstop for the high costs of healthcare. The Federal Government will reimburse a percentage of the highest cost cases if employers agree to offer comprehensive health insurance benefits to all full time employees, including preventative care and health promotion benefits that are proven to make care affordable. This will result in lower costs and lower premiums for both employers and employees. If the Federal Government can help small and large businesses bear the burden of cost in the most expensive cases, we'll dramatically improve the access to health care for everyone.

That is why I am introducing the Healthy Businesses, Healthy Workers Reinsurance Act, to make the federal government a partner in helping businesses with the heavy financial burden of those catastrophic cases. Specifically, this legislation is designed to assist those catastrophic cases that cost more than $50,000 in a single year. Healthy Businesses, Healthy Workers will protect business owners from skyrocketing premiums, and provide more working families affordable, quality healthcare. With reinsurance, health insurance premiums for all of us will go down, by up to approximately 10 percent under this plan. This plan does have a cost associated with it, but the benefits will outweigh the costs. We spend hundreds of billions of dollars each year on inefficient and wasteful health expenditures. We need to make sure that these funds are being spent wisely to ensure that we can lower health care costs and improve coverage.

I believe that we must act now to address the health care crisis in America, taking steps that create real change and address both access to care and the cost of care. There is a growing bipartisan consensus that the Federal Government has a responsibility to help the catastrophically ill. As we take the next steps toward alleviating our nation's health care crisis, a commonsense partnership between employers, families, and the government to share the costs of the sickest among us will lay the groundwork for achieving our ultimate goal: meaningful health care coverage for every single American. I ask all my colleagues to support this legislation.

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By Mrs. FEINSTEIN:

S. 111. A bill for the relief of Joseph Gabra and Sharon Kamel; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am offering today private relief legislation to provide lawful permanent resident status to Joseph Gabra and his wife, Sharon Kamel, Egyptian nationals currently living with their children in Camarillo, California.

Joseph Gabra and Sharon Kamel entered the United States legally on November 1, 1998, on tourist visas. They immediately filed for political asylum based on religious persecution.

The couple fled Egypt because they had been targeted for their active involvement in the Coptic Christian Church in Egypt. Mr. Gabra was employed from 1990–1998 by the Coptic Catholic Diocese Church in El-Fayoum as an accountant and ''project coordinator'' in the Office of Human and Social Elevation. He was responsible for building community facilities such as religious schools, among other things.

His wife, Sharon Kamel, was employed as the Director for Training in the Human Resources Department of the Coptic Church.

Both Mr. Gabra and Ms. Kamel had paid full-time positions with the Coptic Church.

Unfortunately, they and their families suffered abuse because of their commitment to their church. Mr. Gabra was repeatedly jailed by Egyptian authorities because of his work for the church. In addition, Ms. Kamel's cousin was murdered and her brother's business was fire-bombed.

When Ms. Kamel became pregnant with their first child, the family was warned by a member of the Muslim brotherhood that if they did not raise their child as a Muslim, the child would be kidnapped and taken from them.

Frightened by these threats, the young family sought refuge in the United States. Unfortunately, when

they sought asylum here, Mr. Gabra, who has a speech impediment, had difficulty communicating his fear of persecution to the immigration judge.

The judge denied their petition, telling the family that he did not see why they could not just move to another city in Egypt to avoid the abuse they were suffering. Since the time that they were denied asylum, Ms. Kamel's brother, who lived in the same town and suffered similar abuse, was granted asylum.

I have decided to offer legislation on their behalf because I believe that, without it, this hardworking couple and their four United States citizen children would endure immense and unfair hardship.

First, in the ten years that Mr. Gabra and Ms. Kamel have lived here, they have worked to adjust their status through the appropriate legal channels. They left behind employment in Egypt and came to the United States on a lawful visa. Once here, they immediately notified authorities of their intent to seek asylum here. They have played by the rules and followed our laws.

In addition, during those ten years, the couple has had four U.S. citizen children who do not speak Arabic and are unfamiliar with Egyptian culture. If the family is deported, the children would have to acclimate to a different culture, language and way of life.

Jessica, age 10, is the Gabras' oldest child, and in the Gifted and Talented Education program in Ventura County. Rebecca, age 9, and Rafael, age 8, are old enough to understand that they would be leaving their schools, their teachers, their friends and their home. Veronica, the Gabra's youngest child, is just 3 years old.

More troubling is the very real possibility that if sent to Egypt, these four American children would suffer discrimination and persecution because of their religion, just as the rest of their family reports.

Mr. Gabra and Ms. Kamel have made a positive life for themselves and their family in the United States. Both have earned college degrees in Egypt and once in the United States, Mr. Gabra passed the Certified Public Accountant Examination on August 4, 2003. Since arriving here, Mr. Gabra has consistently worked to support his family.

The positive impact they have made on their community is highlighted by the fact that I received a letter of support on their behalf signed by 160 members of their church and community. From everything I have learned about the family, we can expect that they will continue to contribute to their community in productive ways.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of Joseph Gabra and Sharon Kamel.

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

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

S. 111

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

**SECTION 1. ADJUSTMENT OF STATUS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Joseph Gabra and Sharon Kamel shall each be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for adjustment of status to that of an alien lawfully admitted for permanent residence under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) upon filing an application for such adjustment of status.

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of permanent resident status to Joseph Gabra and Sharon Kamel, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Joseph Gabra and Sharon Kamel under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)), or, if applicable, the total number of immigrant visas that are made available to natives to the country of birth of Joseph Gabra and Sharon Kamel under section 202(e) of that Act (8 U.S.C. 1152(e)).

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By Mr. INOUYE:

S. 112. A bill to treat certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness; to the Committee on Finance.

Mr. INOUYE. Mr. President, the legislation I have reintroduced will extend to qualified teaching hospital support organizations the existing debt-financed safe harbor rule. Congress enacted that rule to support the public service activities of tax-exempt schools, universities, pension funds, and consortia of such institutions. Our teaching hospitals require similar support.

As a result, for-profit hospitals are moving from older areas to affluent locations where residents can afford to pay for treatment. These private hospitals typically have no mandate for community service. In contrast, nonprofit hospitals must fulfill a community service requirement. They must stretch their resources to provide increased charitable care, update their facilities, and maintain skilled staffing resulting in closures of nonprofit hospitals due to this financial strain.

The problem is particularly severe for teaching hospitals. Non-profit hospitals provide nearly all the post-graduate medical education in the United States. Post-graduate medical instruction is by nature not profitable. Instruction in the treatment of mental disorders and trauma is especially costly.

Despite their financial problem the Nation's nonprofit hospitals strive to deliver a very high level of service. A study in the December 2006 issue of Archives of International Medicine had surveyed hospitals' quality of care in four areas of treatment. It found that nonprofit hospitals consistently outperformed for-profit hospitals. It also found that teaching hospitals had a higher level of performance in treatment and diagnosis. It said that investment in technology and staffing leads to better care. And it recommended that alternative payments and sources of payments be considered to finance these improvements.

The success and financial constraints of nonprofit teaching hospitals is evident in work of the Queen's Health Systems in my State. This 147–year-old organization maintains the largest, private, nonprofit hospital in Hawaii. It serves as the primary clinical teaching facility for the University of Hawaii's medical residency programs in medicine, general surgery, orthopedic surgery, obstetrics-gynecology, pathology, and psychiatry. It conducts educational and training programs for nurses and allied health personnel. It operates the only trauma unit as well as the chief behavioral health program in the State. It maintains clinics throughout Hawaii, health programs for native Hawaiians, and a small hospital on a rural, economically depressed island. Its medical reference library is the largest in the State. Not the least, it annually provides millions of dollars in uncompensated health services. To help pay for these community benefits, the Queen's Health Systems, as other nonprofit teaching hospitals, relies significantly on income from its endowment.

In the past, the Congress has allowed tax-exempt schools, colleges, universities, and pension funds to invest their endowment in real estate so as to better meet their financial needs. Under the tax code these organizations can incur debt for real estate investments without triggering the tax on unrelated business activities.

If the Queen's Health Systems were part of a university, it could borrow without incurring an unrelated business income tax. Not being part of a university, however, a teaching hospital and its support organization run into the tax code's debt financing prohibition. Nonprofit teaching hospitals have the same if not more pressing needs as universities, schools, and pension trusts. The same safe harbor rule should be extended to teaching hospitals.

My bill would allow the support organizations for qualified teaching hospitals to engage in limited borrowing to enhance their endowment income. The proposal for teaching hospitals is actually more restricted than current law for schools, universities and pension trusts. Under safeguards developed by the Joint Committee on Taxation staff, a support organization for a teaching hospital can not buy and develop land on a commercial basis. The proposal is tied directly to the organization endowment. The staff's revenue

estimates show that the provision with its general application will help a number of teaching hospitals.

The U.S. Senate several times has acted favorably on this proposal. The Senate adopted a similar provision in H.R. 1836, the Economic Growth and Tax Relief Act of 2001. The House conferees on that bill, however, objected that the provision was unrelated to the bill's focus on individual tax relief and the conference deleted the provision from the final legislation. Subsequently, the Finance Committee included the provision in H.R. 7, the CARE Act of 2002, and in S. 476, the CARE Act of 2003 which the Senate passed. In a previous Congress' S. 6, the Marriage, Opportunity, Relief, and Empowerment Act of 2005, which the Senate leadership introduced, also included the proposal.

As the Senate Finance Committee's recent hearings show, substantial health needs would go unmet if not for our charitable hospitals. It is time for the Congress to assist the Nation's teaching hospitals in their charitable, educational service.

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

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

S. 112

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

**SECTION 1. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS FOR PURPOSES OF DETERMINING ACQUISITION INDEBTEDNESS.**

(a) IN GENERAL.—Subparagraph (C) of section 514(c)(9) of the Internal Revenue Code of 1986 (relating to real property acquired by a qualified organization) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ''; or'', and by adding at the end the following new clause:

''(v) a qualified hospital support organization (as defined in subparagraph (I)).''.

(b) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—Paragraph (9) of section 514(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(I) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—For purposes of subparagraph (C)(iv), the term 'qualified hospital support organization' means, with respect to any eligible indebtedness (including any qualified refinancing of such eligible indebtedness), a support organization (as defined in section 509(a)(3)) which supports a hospital described in section 119(d)(4)(B) and with respect to which—

''(i) more than half of its assets (by value) at any time since its organization—

''(I) were acquired, directly or indirectly, by testamentary gift or devise, and

''(II) consisted of real property, and

''(ii) the fair market value of the organization's real estate acquired, directly or indirectly, by gift or devise, exceeded 25 percent of the fair market value of all investment assets held by the organization immediately prior to the time that the eligible indebtedness was incurred.

For purposes of this subparagraph, the term 'eligible indebtedness' means indebtedness secured by real property acquired by the organization, directly or indirectly, by gift or devise, the proceeds of which are used exclusively to acquire any leasehold interest in such real property or for improvements on, or repairs to, such real property. A determination under clauses (i) and (ii) of this subparagraph shall be made each time such an eligible indebtedness (or the qualified refinancing of such an eligible indebtedness) is incurred. For purposes of this subparagraph, a refinancing of such an eligible indebtedness shall be considered qualified if such refinancing does not exceed the amount of the refinanced eligible indebtedness immediately before the refinancing.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indebtedness incurred on or after the date of the enactment of this Act.

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By Mr. INOUYE:

S. 113. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise today, again, to introduce the Rural Preventive Health Care Training Act, a bill that responds to the dire need of our rural communities for quality health care and disease prevention programs. Almost one fourth of Americans live in rural areas and frequently lack access to adequate physical and mental health care. As many as 21 million of the 3 million people living in underserved rural areas are without access to a primary care provider. Even in areas where providers do exist, there are numerous limits to access, such as geography, distance, lack of transportation, and lack of knowledge about available resources. Due to the diversity of rural populations, language and cultural obstacles are often a factor in the access to medical care.

Compound these problems with limited financial resources, and the result is that many Americans living in rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly, and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected, and often develop into full-blown disorders.

An Institute of Medicine, IOM, report entitled, ''Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research,'' highlights the benefits of preventive care for all health problems. The training of health care providers in prevention is crucial in order to meet the demand for care in underserved areas. Currently, rural health care providers lack preventive care training opportunities.

Interdisciplinary preventive training of rural health care providers must be encouraged. Through such training, rural health care providers can build a strong educational foundation from the behavioral, biological, and psychological sciences. Interdisciplinary team prevention training will also facilitate operations at sites with both health and mental health clinics by facilitating routine consultation between groups. Emphasizing the mental health disciplines and their services as part of the health care team will contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act would implement the risk-reduction model described in the IOM study. This model is based on the identification of risk factors and targets specific interventions for those risk factors. The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families, and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

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

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

S. 113

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Rural Preventive Health Care Training Act of 2009''.

**SEC. 2. PREVENTIVE HEALTH CARE TRAINING.**

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by inserting after section 754 the following:

**''SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.**

''(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to provide preventive health care training, in accordance with subsection (c), to health care practitioners practicing in rural areas. Such training shall, to the extent practicable, include training in health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out this subsection, the Secretary shall encourage, but may not require, the use of interdisciplinary training project applications.

''(b) LIMITATION.—To be eligible to receive training using assistance provided under subsection (a), a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

''(c) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this section shall be used—

''(1) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

''(2) to increase staff support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

''(3) to provide training in appropriate research and program evaluation skills in rural communities;

''(4) to create and implement innovative programs and curricula with a specific prevention component; and

''(5) for other purposes as the Secretary determines to be appropriate.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2010 through 2013.''.

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By Mr. INOUYE:

S. 114. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise, again, today to reintroduce legislation to amend the Public Health Service Act for the establishment of a National Center for Social Work Research. Social workers provide a multitude of health care delivery services throughout America to our children, families, the elderly, and persons suffering from various forms of abuse and neglect. The purpose of this center is to support and disseminate information about the basic and clinical social work research and training, with emphasis on service to underserved and rural populations.

While the Federal Government provides funding for various social work research activities through the National Institutes of Health and other Federal agencies, there presently is no coordination or direction of these critical activities and no overall assessment of needs and opportunities for empirical knowledge development. The establishment of a Center for Social Work Research would result in improved behavioral and mental health care outcomes for our Nation's children, families, the elderly, and others.

In order to meet the increasing challenges of bringing cost-effective, research-based quality health care to all Americans, we must recognize the important contributions of social work researchers to health care delivery and central role that the Center for Social Work can provide in facilitating their work.

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

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

S. 114

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''National Center for Social Work Research Act''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) social workers focus on the improvement of individual and family functioning and the creation of effective health and mental health prevention and treatment interventions in order for individuals to become more productive members of society;

(2) social workers provide front line prevention and treatment services in the areas of school violence, aging, teen pregnancy, child abuse, domestic violence, juvenile crime, and substance abuse, particularly in rural and underserved communities; and

(3) social workers are in a unique position to provide valuable research information on these complex social concerns, taking into account a wide range of social, medical, economic and community influences from an interdisciplinary, family-centered and community-based approach.

**SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.**

(a) IN GENERAL.—Section 401(a) of the Public Health Service Act (42 U.S.C. 281(a)) is amended by adding at the end the following:

''(26) The National Center for Social Work Research.''.

(b) ESTABLISHMENT.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

**''Subpart 7—National Center for Social Work Research**

**''SEC. 485I. PURPOSE OF CENTER.**

''The general purpose of the National Center for Social Work Research (referred to in this subpart as the 'Center') is the conduct and support of, and dissemination of targeted research concerning social work methods and outcomes related to problems of significant social concern. The Center shall—

''(1) promote research and training that is designed to inform social work practices, thus increasing the knowledge base which promotes a healthier America; and

''(2) provide policymakers with empirically-based research information to enable such policymakers to better understand complex social issues and make informed funding decisions about service effectiveness and cost efficiency.

**''SEC. 485J. SPECIFIC AUTHORITIES.**

''(a) IN GENERAL.—To carry out the purpose described in section 485I, the Director of the Center may provide research training and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, the association of socioeconomic status, gender, ethnicity, age and geographical location and health, the social work care of individuals with, and families of individuals with, acute and chronic illnesses, child abuse, neglect, and youth violence, and child and family care to address problems of significant social concern especially in underserved populations and underserved geographical areas.

''(b) STIPENDS AND ALLOWANCES.—The Director of the Center may provide individuals receiving training and instruction or traineeships or fellowships under subsection (a) with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary.

''(c) GRANTS.—The Director of the Center may make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under subsection (a).

**''SEC. 485K. ADVISORY COUNCIL.**

''(a) DUTIES.—

''(1) IN GENERAL.—The Secretary shall establish an advisory council for the Center that shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the Center on matters related to the activities carried out by and through the Center and the policies with respect to such activities.

''(2) GIFTS.—The advisory council for the Center may recommend to the Secretary the acceptance, in accordance with section 231, of conditional gifts for study, investigations, and research and for the acquisition of grounds or construction, equipment, or maintenance of facilities for the Center.

''(3) OTHER DUTIES AND FUNCTIONS.—The advisory council for the Center—

''(A)(i) may make recommendations to the Director of the Center with respect to research to be conducted by the Center;

''(ii) may review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects that demonstrate the probability of making valuable contributions to human knowledge; and

''(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Center;

''(B) may collect, by correspondence or by personal investigation, information relating to studies that are being carried out in the United States or any other country and, with the approval of the Director of the Center, make such information available through appropriate publications; and

''(C) may appoint subcommittees and convene workshops and conferences.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The advisory council shall be composed of the ex officio members described in paragraph (2) and not more than 18 individuals to be appointed by the Secretary under paragraph (3).

''(2) EX OFFICIO MEMBERS.—The ex officio members of the advisory council shall include—

''(A) the Secretary of Health and Human Services, the Director of NIH, the Director of the Center, the Chief Social Work Officer of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Associate Director of Prevention Research at the National Institute of Mental Health, the Director of the Division of Epidemiology and Services Research, the Assistant Secretary of Health and Human Services for the Administration for Children and Families, the Assistant Secretary of Education for the Office of Educational Research and Improvement, the Assistant Secretary of Housing and Urban Development for Community Planning and Development, and the Assistant Attorney General for Office of Justice Programs (or the designees of such officers); and

''(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

''(3) APPOINTED MEMBERS.—The Secretary shall appoint not to exceed 18 individuals to the advisory council, of which—

''(A) not more than two-thirds of such individual shall be appointed from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the Center, and at least 7 such individuals shall be professional social workers who are recognized experts in the area of clinical practice, education, or research; and

''(B) not more than one-third of such individuals shall be appointed from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

The Secretary shall make appointments to the advisory council in such a manner as to ensure that the terms of the members do not all expire in the same year.

''(4) COMPENSATION.—Members of the advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The remaining members shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the maximum rate payable for a position at grade GS–15 of the General Schedule.

''(c) TERMS.—

''(1) IN GENERAL.—The term of office of an individual appointed to the advisory council under subsection (b)(3) shall be 4 years, except that any individual appointed to fill a vacancy on the advisory council shall serve for the remainder of the unexpired term. A member may serve after the expiration of the member's term until a successor has been appointed.

''(2) REAPPOINTMENTS.—A member of the advisory council who has been appointed under subsection (b)(3) for a term of 4 years may not be reappointed to the advisory council prior to the expiration of the 2-year period beginning on the date on which the prior term expired.

''(3) VACANCY.—If a vacancy occurs on the advisory council among the members under subsection (b)(3), the Secretary shall make an appointment to fill that vacancy not later than 90 days after the date on which the vacancy occurs.

''(d) CHAIRPERSON.—The chairperson of the advisory council shall be selected by the Secretary from among the members appointed under subsection (b)(3), except that the Secretary may select the Director of the Center to be the chairperson of the advisory council. The term of office of the chairperson shall be 2 years.

''(e) MEETINGS.—The advisory council shall meet at the call of the chairperson or upon the request of the Director of the Center, but not less than 3 times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director of the Center.

''(f) ADMINISTRATIVE PROVISIONS.—The Director of the Center shall designate a member of the staff of the Center to serve as the executive secretary of the advisory council. The Director of the Center shall make available to the advisory council such staff, information, and other assistance as the council may require to carry out its functions. The Director of the Center shall provide orientation and training for new members of the advisory council to provide such members with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

''(g) COMMENTS AND RECOMMENDATIONS.—The advisory council may prepare, for inclusion in the biennial report under section 485L—

''(1) comments with respect to the activities of the advisory council in the fiscal years for which the report is prepared;

''(2) comments on the progress of the Center in meeting its objectives; and

''(3) recommendations with respect to the future direction and program and policy emphasis of the center.

The advisory council may prepare such additional reports as it may determine appropriate.

**''SEC. 485L. BIENNIAL REPORT.**

''The Director of the Center, after consultation with the advisory council for the Center, shall prepare for inclusion in the biennial report under section 403, a biennial report that shall consist of a description of the activities of the Center and program policies of the Director of the Center in the fiscal years for which the report is prepared. The Director of the Center may prepare such additional reports as the Director determines appropriate. The Director of the Center shall provide the advisory council of the Center an opportunity for the submission of the written comments described in section 485K(g).

**''SEC. 485M. QUARTERLY REPORT.**

''The Director of the Center shall prepare and submit to Congress a quarterly report that contains a summary of findings and policy implications derived from research conducted or supported through the Center.''.

By Mrs. FEINSTEIN:

S. 116. A bill to require the Secretary of the Treasury to allocate $10,000,000,000 of Troubled Asset Relief Program funds to local governments that have suffered significant losses due to highly-rated investments in failed financial institutions; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. MR. President, I rise today to introduce legislation that will provide relief to local governments that have suffered losses due to highly-rated investments with failed financial institutions, such as Lehman Brothers and Washington Mutual.

The TARP Assistance for Local Governments Act would require the Treasury Secretary to provide $10 billion in TARP funds to local governments that suffered losses due to investments in failed financial institutions; and limit relief to local governments with investments in failed financial institutions that were highly rated, as determined by the Treasury Secretary.

This legislation is necessary because local governments are in jeopardy of losing up to $10 billion as a result of these investments.

In California 28 cities and counties could lose nearly $300 million.

These investments include basic operational funds which cities and counties rely upon to function.

For many cities and counties that are already struggling with budget shortfalls, the consequences of these losses are severe.

Public safety, education, public health, infrastructure, and transit will be compromised.

Communities large and small are significantly impacted.

These are examples from my State that demonstrate the gravity of this situation.

This list was included in a December 22 letter to Secretary Paulson, and to date, I have not received a response. San Mateo County sustained a loss of $30 million, which will require the county to abandon plans for a new and urgently needed county jail. The current jail will continue to operate in overcrowded conditions, far beyond the rating of the facility. The result will be unsafe working conditions for the corrections personnel and the likelihood that convicted criminals will be released into the community early and in large numbers.

The City of Shafter, a small community of 15,000 in the San Joaquin Valley, sustained a loss of $300,000, or nearly 4 percent of its annual budget. The City will be forced to make across-the-board cuts in all services, including police and fire.

Monterey County is facing a $30 million loss. Amid numerous other cuts, hardest hit will be programs targeting gang activities, including a special task force and the construction of new adult and juvenile corrections facilities to manage these criminals.

The San Mateo County Transportation Authority sustained a loss of more than $25 million, which will mean delays and higher costs for major projects that will reduce emissions and traffic, specifically the electrification of the Caltrain Peninsula Commuter Rail Service. Similarly, cuts in highway and roads projects will put more people on the local roads for longer times at a major cost in compromised air quality.

The City of Culver City has lost $1 million. This will result in a substantial reduction in planned street repairs and higher liability exposure from accidents, greater environmental degradation from storm water drain off, and worsened traffic congestion in a region of the U.S. ranked as one of the worst for traffic.

The Hillsborough City School District lost over $924,000. Projects to create more classrooms for increased enrollment will not take place, increasing class sizes. Combined with other budget cuts from the State, all the District's programs are threatened.

The Vallejo Sanitation and Flood Control District, which provides sanitary sewer and storm water services to the City of Vallejo, population 119,600, and nearby areas of Solano County, sustained losses of $4.5 million in Lehman Brothers investments and $1.46 million in Washington Mutual investments. The result is that aging infrastructure essential to the health of this community will not be replaced. The City of Vallejo recently declared Chapter 9 Municipal bankruptcy.

Sacramento County sustained an increase in costs of $8 million related to an interest rate swap agreement with Lehman. This increase means fewer funds for sheriff's patrol and investigations and probation supervision, resulting in an increased risk to the safety of the community and reductions in social safety net services, at a time of increased community need.

The City of Folsom lost $700,000, which has caused the City to indefinitely postpone staffing and equipping a new fire station.

The San Mateo County Community College District sustained a loss of $25 million in voter-approved bond funds. As a result, the District will be forced to abandon a program to build more classrooms, and, therefore, turn away thousands of potential students, many of them unemployed adults seeking job training.

The economic rescue legislation included a provision to require the Secretary of the Treasury to consider the impact of these losses on local governments when disbursing TARP funds.

But, to date, the Secretary has not exercised his authority to assist local governments with such funds.

The TARP Assistance for Local Governments Act of 2009 will change this, and ensure that communities remain solvent and taxpayers are protected.

Given the urgency of this situation, we can no longer afford to wait.

I hope that my colleagues will join me in supporting this important legislation.

By Mr. KOHL (for himself, Ms. COLLINS, Mrs. LINCOLN, Mrs. BOXER, and Ms. MIKULSKI):

S. 117. A bill to protect the property and security of homeowners who are subject to foreclosure proceedings, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KOHL. Mr. President, I am introducing the Foreclosure Rescue Fraud Act of 2009 with my colleagues Senators COLLINS and LINCOLN. This legislation, which we introduced last Congress, will make it more difficult for financial predators to take advantage of homeowners in foreclosure.

Foreclosure rescue scams are another consequence of the housing crisis that is plaguing the country. Foreclosure filings have been climbing across the country for the past two years and in Wisconsin, filings have risen 22 percent over the past year. Additionally, the Federal Reserve estimates that 2.5 million Americans will be facing foreclosure in 2009. As default rates and foreclosure filings have steadily increased, so have financial scams which prey on homeowners. The Better Business Bureau listed foreclosure rescue scams as one of the top ten financial scams in 2008.

For most people, their home is their greatest asset. When a homeowner falls behind in their payments, it can cause a great deal of emotional stress on the family. Scam artists prey on owner's desperation and give them a false sense of security, claiming they can help ''save their home.'' The types of scams vary, but the end result is that the homeowner is left in a more desperate situation than before.

The Foreclosure Rescue Fraud Act aims to prevent these cruel abuses by increasing disclosure and creating strict requirements for a person or entity offering foreclosure-rescue services. The legislation prohibits a ''foreclosure consultant'' from collecting any fee or compensation before completing contracted services, and from obtaining power of attorney from a homeowner. It also requires full disclosure of third-party consideration in the property and creates a 3-day right to cancel the foreclosure-rescue contract. Finally, the legislation creates a federal ''floor'' of protection and allows states without rescue-fraud laws to use these provisions as a way to help scam victims. The Foreclosure Rescue Fraud Act will make it easier for states and the Federal Government to combat these schemes and protect people who are already financially distressed from being made worse off.

The past year has exposed the irregularities and inadequacies of our banking regulations. As Congress continues to work on proposals to restore confidence in our financial industry, it is imperative that we put in place new rules and regulations that better protect consumers in order to avoid further economic strain.

By Mr. KOHL (for himself, Mr. SCHUMER, Mr. DURBIN, Mr. BROWN, Mr. NELSON of Florida, Ms. STABENOW, Mr. LEAHY, and Mr. CASEY):

S. 118. A bill to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KOHL. Mr. President, I am introducing the Section 202 Supportive Housing for the Elderly Act of 2008 with my colleague Senator CHARLES SCHUMER for the purpose of expanding and improving the Department of Housing and Urban Development's Section 202 Supportive Housing for the Elderly Program. Section 202 provides capital grants to nonprofit community organizations for the development of supportive housing and provision of rental assistance exclusively for low-income seniors. This program supplies housing that includes access to supportive services to allow seniors to remain safely in their homes and age in place. Access to supportive services reduces the occurrence of costly nursing home stays and helps save both seniors and the Federal Government money.

There are over 300,000 seniors living in 6,000 Section 202 developments across the country. Unfortunately, the program is far from meeting the growing demand. Approximately 730,000 additional senior housing units will be needed by 2020 in order to address the future housing needs of low-income seniors. There are currently 10 seniors vying for each unit that becomes available, with many seniors waiting years before finding a home. To make matters worse, we are losing older Section 202 properties to developers of high-priced condominiums and apartments. As a result, many seniors currently participating in the program could end up homeless.

Congress needs to act now to address the demand for safe, affordable senior housing. Our legislation would promote the construction of new senior housing facilities as well as preserve and improve upon existing facilities. The legislation would also support the conversion of existing facilities into assisted living facilities that provide a wide variety of additional supportive health and social services. Under current law, these processes are time-consuming and bureaucratic, often requiring waivers and special permission from HUD. Finally, our legislation provides priority consideration for our homeless seniors seeking a place to call their own. With this bill, we hope to reduce current impediments and increase the availability of affordable and supportive housing for our Nations most vulnerable seniors.

I want to thank the American Association of Homes and Services for the Aging as well as the Wisconsin Association of Homes and Services for the Aging for being champions of this legislation and for working with us to develop a comprehensive bill that will help meet the growing need for senior housing in this Nation.

Senior citizens deserve to have housing that will help them maintain their independence. I urge that my colleagues will join Senator SCHUMER and me in our efforts to ensure that older Americans have a place to call home during their golden years.

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

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

S. 118

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

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Section 202 Supportive Housing for the Elderly Act of 2009''.

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



**TITLE I—NEW CONSTRUCTION REFORMS**

**SEC. 101. PROJECT RENTAL ASSISTANCE.**

Paragraph (2) of section 202(c) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(2)) is amended—

(1) by inserting after ''ASSISTANCE.—'' the following: ''(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—'';

(2) in the last sentence, by striking ''may'' and inserting ''shall''; and

(3) by adding at the end the following new subparagraph:

''(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

''(i) EXPIRATION OF CONTRACT TERM.—Upon the expiration of each contract term, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, and any increases, including adequate reserves, supportive services, and service coordinators, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

''(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the

control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.''.

**SEC. 102. SELECTION CRITERIA.**

Section 202(f)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(f)) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) (as so redesignated by paragraph (2) of this subsection) the following new subparagraph:

''(F) the extent to which the applicant has ensured that a service coordinator will be employed or otherwise retained for the housing, who has the managerial capacity and responsibility for carrying out the actions described in subparagraphs (A) and (B) of subsection (g)(2);''.

**SEC. 103. DEVELOPMENT COST LIMITATIONS.**

Section 202(h)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''reasonable'' before ''development cost limitations''.

**SEC. 104. OWNER DEPOSITS.**

Section 202(j)(3)(A) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(3)(A)) is amended by inserting after the period at the end the following: ''Such amount shall be used only to cover operating deficits during the first 3 years of operations and shall not be used to cover construction shortfalls or inadequate initial project rental assistance amounts.''.

**SEC. 105. DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.**

Subparagraph (B) of section 202(k)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(k)(4)(B)) is amended by inserting before the semicolon the following: '', except that, in the case of any national organization that is the owner of multiple housing projects assisted under this section, the organization may comply with clause (i) of this subparagraph by having a local advisory board to the governing board of the organization the membership which is selected in the manner required under clause (i)''.

**SEC. 106. PREFERENCES FOR HOMELESS ELDERLY.**

Subsection (j) of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q(j)) is amended by adding at the end the following new paragraph:

''(9) PREFERENCES FOR HOMELESS ELDERLY.—The Secretary shall permit an owner of housing assisted under this section to establish for, and apply to, such housing a preference in tenant selection for the homeless elderly, either within the application or after selection pursuant to subsection (f), but only if—

''(A) such preference is consistent with paragraph (2); and

''(B) the owner demonstrates that the supportive services identified pursuant to subsection (e)(4), or additional supportive services to be made available upon implementation of the preference, will meet the needs of the homeless elderly, maintain safety and security for all tenants, and be provided on a consistent, long-term, and economical basis.''.

**SEC. 107. NONMETROPOLITAN ALLOCATION.**

Paragraph (3) of section 202(1) of the Housing Act of 1959 (12 U.S.C. 1701q(1)(3)) is amended by inserting after the period at the end the following: ''In complying with this paragraph, the Secretary shall either operate a national competition for the nonmetropolitan funds or make allocations to regional offices of the Department of Housing and Urban Development.''.

## TITLE II—REFINANCING

**SEC. 201. APPROVAL OF PREPAYMENT OF DEBT.**

Subsection (a) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) in the matter preceding paragraph (1), by inserting '', for which the Secretary's consent to prepayment is required,'' after ''Affordable Housing Act)'';

(2) in paragraph (1)—

(A) by inserting ''at least 20 years following'' before ''the maturity date'';

(B) by inserting ''project-based'' before ''rental assistance payments contract'';

(C) by inserting ''project-based'' before ''rental housing assistance programs''; and

(D) by inserting '', or any successor project-based rental assistance program,'' after ''1701s))'';

(3) by amending paragraph (2) to read as follows:

''(2) the prepayment may involve refinancing of the loan if such refinancing results in—

''(A) a lower interest rate on the principal of the loan for the project and in reductions in debt service related to such loan; or

''(B) a transaction in which the project owner will address the physical needs of the project, but only if, as a result of the refinancing—

''(i) the rent charges for unassisted families residing in the project do not increase or such families are provided rental assistance under a senior preservation rental assistance contract for the project pursuant to subsection (e); and

''(ii) the overall cost for providing rental assistance under section 8 for the project (if any) is not increased, except, upon approval by the Secretary to—

''(I) mark-up-to-market contracts pursuant to section 524(a)(3) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by nonprofit organizations; or

''(II) mark-up-to-budget contracts pursuant to section 524(a)(4) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by eligible owners (as such term is defined in section 202(k) of the Housing Act of 1959 (12U.S.C. 1701q(k)); and''; and

(4) by adding at the end the following:

''(3) notwithstanding paragraph (2)(A), the prepayment and refinancing authorized pursuant to paragraph (2)(B) involves an increase in debt service only in the case of a refinancing of a project assisted with a loan under such section 202 carrying an interest rate of 6 percent or lower.''.

**SEC. 202. SOURCES OF REFINANCING.**

The last sentence of section 811(b) of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by inserting after ''National Housing Act,'' the following: ''or approving the standards used by authorized lenders to underwrite a loan refinanced with risk sharing as provided by section 542 of the Housing and Community Development Act of 1992 (12 U.S.C.1701 note),''; and

(2) by striking ''may'' and inserting ''shall''.

**SEC. 203. USE OF UNEXPENDED AMOUNTS.**

Subsection (c) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking ''USE OF UNEXPENDED AMOUNTS.—'' and inserting ''USE OF PROCEEDS.—'';

(2) by amending the matter preceding paragraph (1) to read as follows: ''Upon execution of the refinancing for a project pursuant to this section, the Secretary shall ensure that proceeds are used in a manner advantageous to tenants, or are used in the provision of affordable rental housing and related social services for elderly persons by the private nonprofit organization project owner, private nonprofit organization project sponsor, or private nonprofit organization project developer, including—'';

(3) in paragraph (1), by striking ''not more than 15 percent of'';

(4) in paragraph (2), by inserting before the semicolon the following; '', including reducing the number of units by reconfiguring units that are functionally obsolete, unmarketable, or not economically viable'';

(5) in paragraph (3), by striking ''or'' at the end;

(6) in paragraph (4), by striking ''according to a pro rata allocation of shared savings resulting from the refinancing.'' and inserting a semicolon; and

(7) by adding at the end the following new paragraphs:

''(5) rehabilitation of the project to ensure long-term viability;

''(6) the payment to the project owner, sponsor, or third party developer of a developer's fee in an amount not to exceed—

''(A) in the case of a project refinanced through a State low income housing tax credit program, the fee permitted by the low income housing tax credit program as calculated by the State program as a percentage of acceptable development cost as defined by that State program; or

''(B) in the case of a project refinanced through any other source of refinancing, 15 percent of the acceptable development cost; and

''(7) the payment of equity, if any, to—

''(A) in the case of a sale, to the seller or the sponsor of the seller, in an amount equal to the lesser of the purchase price or the appraised value of the project, as each is reduced by the cost of prepaying any outstanding indebtedness on the project and transaction costs of the sale; or

''(B) in the case of a refinancing without the transfer of the project, to the project owner or the project sponsor, in an amount equal to the difference between the appraised value of the project less the outstanding indebtedness and total acceptable development cost.

For purposes of paragraphs (6)(B) and (7)(B), the term ''acceptable development cost'' shall include, as applicable, the cost of acquisition, rehabilitation, loan prepayment, initial reserve deposits, and transaction costs.''.

**SEC. 204. USE OF PROJECT RESIDUAL RECEIPTS.**

Paragraph (1) of section 811(d) of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking ''not more than 15 percent of''; and

(2) by inserting before the period at the end the following: ''or other purposes approved by the Secretary''.

**SEC. 205. ADDITIONAL PROVISIONS.**

Section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended by adding at the end the following new subsections:

''(e) SENIOR PRESERVATION RENTAL ASSISTANCE CONTRACTS.—Notwithstanding any other provision of law, in connection with a prepayment plan for a project approved under subsection (a) by the Secretary or as otherwise approved by the Secretary to prevent displacement of elderly residents of the project in the case of refinancing or recapitalization and to further preservation and affordability of such project, the Secretary shall provide project-based rental assistance for the project under a senior preservation rental assistance contract, as follows:

''(1) Assistance under the contract shall be made available to the private nonprofit organization owner—

''(A) for a term of at least 20 years, subject to annual appropriations; and

''(B) under the same rules governing project-based rental assistance made available under section 8 of the Housing Act of 1937.

''(2) Any projects for which a senior preservation rental assistance contract is provided shall be subject to a use agreement to ensure continued project affordability having a term of the longer of (A) the term of the senior preservation rental assistance contract, or (B) such term as is required by the new financing.

''(f) MORTGAGE SALE DEMONSTRATION.—

''(1) IN GENERAL.—The Secretary may sell mortgages associated with loans made under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act) in accordance with the relevant terms for sales of subsidized loans on multifamily housing projects under section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11). For the purpose of demonstrating the efficiency, effectiveness, quality, and timeliness of asset management and regulatory oversight of certain portfolios of such mortgages by State housing finance agencies, the Secretary shall carry out a demonstration program, in not more than 5 States, to sell portfolios of such mortgages to State housing finance agencies for a price not to exceed the unpaid principal balances of such mortgages and otherwise in accordance with the requirements of such section 203.

''(2) LIMITATIONS.—In carrying out the demonstration program required under paragraph (1), the Secretary shall—

''(A) prohibit State housing finance agencies from giving preference to, or conditioning the approval of, awards of subordinate debt funds, allocations of tax credits, or tax exempt bonds based on the use of financing for the first mortgage that is provided by such State housing finance agency;

''(B) require such agencies to allow, in accordance with this section, for the refinancing or prepayment of loans made under section 202 of the Housing Act of 1959 with a loan selected by the owners, except that any use restrictions on the property for which the loan was made shall remain in effect for the duration provided under the original terms of such loan; and

''(C) only carry out the demonstration program in a State that has experience with operating and maintaining a housing preservation revolving loan fund.

''(3) STUDY.—The Secretary shall conduct a study to evaluate the performance and results of the demonstration program carried out under paragraph (1). In conducting such study, the Secretary shall place particular emphasis on whether the asset management functions and activities related to loans and properties held in the portfolios sold to State housing finance agencies under such demonstration program have been accomplished in a timely, effective, and efficient manner, including an analysis of approvals of refinancings and preservation transactions, rent increase requests, withdrawals from reserves or residual receipts (where there is no contract administrator), and provider and resident satisfaction.

''(4) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on—

''(A) the findings of the study required under paragraph (3); and

''(B) any recommendations the Secretary may have for expanding the demonstration project required under paragraph (1).

''(g) SUBORDINATION OR ASSUMPTION OF EXISTING DEBT.—In lieu of prepayment under this section of the indebtedness with respect to a project, the Secretary may approve—

''(1) in connection with new financing for the project, the subordination of the loan for the project under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act) and the continued subordination of any other existing subordinate debt previously approved by the Secretary to facilitate preservation of the project as affordable housing; or

''(2) the assumption (which may include the subordination described in paragraph (1)) of the loan for the project under such section 202 in connection with the transfer of the project with such a loan to a private nonprofit organization.

''(h) FLEXIBLE SUBSIDY DEBT.—The Secretary shall waive the requirement that debt for a project pursuant to the flexible subsidy program under section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a) be prepaid in connection with a prepayment, refinancing, or transfer under this section of a project if such waiver is necessary for the financial feasibility of the transaction and is consistent with the long-term preservation of the project as affordable housing.

''(i) TENANT INVOLVEMENT IN PREPAYMENT AND REFINANCING.—The Secretary shall not accept an offer to prepay the loan for any project under section 202 of the Housing Act of 1959 unless the Secretary has—

''(1) determined that the owner of the project has notified the tenants of the owner's request for approval of a prepayment;

''(2) determined that the owner of the project has provided the tenants with an opportunity to comment on the owner's request for approval of a prepayment, including a description of any anticipated rehabilitation or other use of the proceeds from the transaction, and its impacts on project rents, tenant contributions, or the affordability restrictions for the project; and

''(3) taken such comments into consideration.

''(j) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—For purposes of this section, the term 'private nonprofit organization' has the meaning given such term in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).''.

## TITLE III—ASSISTED LIVING FACILITIES

### SEC. 301. DEFINITION OF ASSISTED LIVING FACILITY.

Section 202b(g) of the Housing Act of 1959 (12 U.S.C. 1701q–2(g)) is amended by striking paragraph (1) and inserting the following new paragraph:

''(1) the term 'assisted living facility' means a facility that—

''(A) is owned by a private nonprofit organization; and

''(B)(i) is licensed and regulated by a State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located); or

''(ii)(I) makes available, directly or through recognized and experienced third party service providers, to residents at the resident's request or choice supportive services to assist the residents in carrying out the activities of daily living, as described in section 232(b)(6)(B) of the National Housing Act (12 U.S.C. 1715w(b)(6)(B)); and

''(II) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and''.

### SEC. 302. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL ASSISTANCE.

Clause (iii) of section 8(o)(18)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(18)(B)(iii)) is amended by inserting before the period at the end the following: '', except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate.''.

## TITLE IV—FACILITATING AFFORDABLE HOUSING PRESERVATION TRANSACTIONS

### SEC. 401. USE OF SALE OR REFINANCING PROCEEDS.

Notwithstanding any other provision of law, in connection with the sale or refinancing of a multifamily housing project, or the transfer of an assistance contract on such a property, that requires the approval of the Secretary of Housing and Urban Development, the Secretary shall not impose any condition that restricts the amount or use of sale or refinancing proceeds, or requires the filing of a financial report, unless such condition is expressly authorized by an existing contract entered into between the Secretary (or the Secretary's designee) and the project owner before the imposition of a condition prohibited by this section or is a general condition for new financing with a mortgage insured by the Secretary. Any such condition previously imposed by the Secretary after January 1, 2005, shall, at the option of the project owner, be considered void and not enforceable, and any agreement containing such a condition shall be rescinded and may be reissued without the void condition.

## TITLE V—NATIONAL SENIOR HOUSING CLEARINGHOUSE

### SEC. 501. NATIONAL SENIOR HOUSING CLEARINGHOUSE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall establish and operate a clearinghouse to serve as a national repository to receive, collect, process, assemble, and disseminate information regarding the availability and quality of multifamily developments for elderly tenants, including—

(1) the availability of—

(A) supportive housing for the elderly pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), including any housing unit assisted with a project rental assistance contract under such section;

(B) properties and units eligible for assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(C) properties eligible for the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986;

(D) units in assisted living facilities insured pursuant to section 221(d)(4) of the National Housing Act (12 U.S.C. 17151(d)(4));

(E) units in any multifamily project that has been converted into an assisted living facility for elderly persons pursuant to section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2); and

(F) any other federally assisted or subsidized housing for the elderly;

(2) the number of available units in each property, project, or facility described in paragraph (1);

(3) the number of bedrooms in each available unit in each property, project, or facility described in paragraph (1);

(4) the estimated cost to a potential tenant to rent or reside in each available unit in each property, project, or facility described in paragraph (1);

(5) the presence of a waiting list for entry into any available unit in each property, project, or facility described in paragraph (1);

(6) the number of persons on the waiting list for entry into any available unit in each property, project, or facility described in paragraph (1);

(7) the estimated time an individual can expect to be on the waiting list for entry into any available unit in each property, project, or facility described in paragraph (1);

(8) the amenities available in each available unit in each property, project, or facility described in paragraph (1), including—

(A) the services provided by such property, project, or facility;

(B) the size and availability of common space within each property, project, or facility;

(C) the availability of organized activities for individuals residing in such property, project, or facility; and

(D) any other additional amenities available to individuals residing in such property, project, or facility;

(9) the level of care (personal, physical, or nursing) available to individuals residing in any property, project, or facility described in paragraph (1);

(10) whether there is a service coordinator in any property, project, or facility described in paragraph (1); and

(11) any other criteria determined appropriate by the Secretary.

(b) COLLECTION AND UPDATING OF INFORMATION.—

(1) INITIAL COLLECTION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct an annual survey requesting information from each owner of a property, project, or facility described in subsection (a)(1) regarding the provisions described in paragraphs (2) through (11) of such subsection.

(2) RESPONSE TIME.—Not later than 30 days after receiving the request described under paragraph (1), the owner of each such property, project, or facility shall submit such information to the Secretary of Housing and Urban Development.

(3) PUBLIC AVAILABILITY.—Not later than 60 days after the Secretary of Housing and Urban Development receives the submission of any information required under paragraph (2), the Secretary shall make such information publicly available through the clearinghouse.

(4) UPDATES.—The Secretary of Housing and Urban Development shall conduct an annual survey of each owner of a property, project, or facility described in subsection (a)(1) for the purpose of updating or modifying information provided in the initial collection of information under paragraph (1). Not later than 30 days after receiving such a request, the owner of each such property, project, or facility shall submit such updates or modifications to the Secretary. Not later than 60 days after receiving such updates or modifications, the Secretary shall inform the clearinghouse of such updated or modified information.

(c) FUNCTIONS.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding the availability of housing in multifamily developments for elderly tenants;

(2) make such information publicly available via the Internet website of the Department of Housing and Urban Development, which shall include—

(A) access via electronic mail; and

(B) an easily searchable, sortable, downloadable, and accessible index that itemizes the availability of housing in multifamily developments for elderly tenants by State, county, and zip code;

(3) establish a toll-free number to provide the public with specific information regarding the availability of housing in multifamily developments for elderly tenants; and

(4) perform any other duty that the Secretary determines necessary to achieve the purposes of this section.

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

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By Mrs. FEINSTEIN:

S. 119. A bill for the relief of Guy Privat Tape and Lou Nazie Raymonde Toto; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am reintroducing a private relief bill on behalf of Guy Privat Tape and his wife Lou Nazie Raymonde Toto. Mr. Tape and Ms. Toto are citizens of the Ivory Coast, but have been living in the San Francisco area of California for approximately 15 years.

The story of Mr. Tape and Ms. Toto is compelling and I believe they merit Congress' special consideration for such an extraordinary form of relief as a private bill.

Mr. Tape and Ms. Toto were previously political activists who were subjected to numerous atrocities in the early 1990s in the Ivory Coast.

After a demonstration in which both were promoting peace, they were jailed and tortured by their own government. Ms. Toto was brutally raped by her captors and in 1997 learned that she had contracted HIV.

Despite the hardships that they suffered, Mr. Tape and Ms. Toto were able to make a better life for themselves in the United States. Mr. Tape arrived in the U.S. in 1993 on a B1/B2 non-immigrant visa. Ms. Toto entered without inspection in 1995 from Spain. Despite being diagnosed with HIV, Ms. Toto was able to give birth to two healthy children, Melody, age 10, and Emmanuel, age 6.

Since arriving in the United States, this family has dedicated themselves to community involvement and a strong work ethic. They pay taxes and own their own home in Hercules, CA. They are active members of Easter Hill United Methodist Church.

Mr. Tape works full-time as a security guard with Universal Protective Services. He also manages a small business, Melody's Carpet Cleaning & Upholstery. He employs four other individuals, all U.S. citizens. Unfortunately, in 2002, Mr. Tape was diagnosed with urologic cancer. While his doctor states that the cancer is currently in remission, he will continue to require life-long surveillance to monitor for reoccurrence of the disease.

In addition to raising her two children, Ms. Toto became a certified Nursing Assistant in 2001 and currently works at Creekside Health Care in San Pablo, CA. She hopes to finish her schooling so that she can become a Registered Nurse. Ms. Toto continues to receive medical treatment for HIV. According to her doctor, without access to adequate health care and laboratory monitoring, she is at risk of developing life threatening illnesses.

Mr. Tape and Ms. Toto applied for asylum when they arrived in the U.S., but after many years of litigation, the claim was ultimately denied by the 9th Circuit Court of Appeals.

Although the regime which subjected Mr. Tape and Ms. Toto to imprisonment and torture is no longer in power, Mr. Tape has been afraid to return to the Ivory Coast due to his prior association with President Gbagbo. Mr. Tape strongly believes that his family will be targeted if they return to the Ivory Coast.

One of the most compelling reasons for permitting the family to remain in the United States is the impact their deportation would have on their two children. For Melody and Emmanuel, the United States is the only country they have ever known. Mr. Tape believes that if the family returns to the Ivory Coast, these two young children will be forced to enter the army.

We are the only hope for this family who seeks to remain in the United States. To send them back to the Ivory Coast, where they will likely face persecution and will not be able to obtain adequate medical treatment for their illnesses would be devastating to them. They are contributing members of their community and have embraced the American dream with their strong work ethic and family values. I have received approximately 50 letters from the church community in support of this family. Representative GEORGE MILLER has also requested that we assist this family.

I ask my colleagues to support this private bill. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 119

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

**SECTION 1. PERMANENT RESIDENT STATUS FOR GUY PRIVAT TAPE AND LOU NAZIE RAYMONDE TOTO.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Guy Privat Tape and Lou Nazie Raymonde Toto shall each be eligible for the issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Guy Privat Tape or Lou Nazie Raymonde Toto enters the United States before the filing deadline specified in subsection (c), Guy Privat Tape or Lou Nazie Raymonde Toto, as appropriate, shall be considered to have entered

and remained lawfully in the United States and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for the issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon granting an immigrant visa or permanent residence to Guy Privat Tape and Lou Nazie Raymonde Toto, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Guy Privat Tape and Lou Nazie Raymonde Toto under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Guy Privat Tape and Lou Nazie Raymonde Toto under section 202(e) of such Act (8 U.S.C. 1152(e)).

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By Mrs. FEINSTEIN:

S. 120. A bill for the relief of Denes Fulop and Gyorgyi Fulop; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today a private immigration relief bill to provide lawful permanent residence status to Denes and Gyorgyi Fulop, Hungarian nationals who have lived in California for more than 20 years. The Fulops are the parents of six U.S. citizen children.

I first introduced this bill in June, 2000. Today, the Fulops continue to face deportation having exhausted all administrative remedies under our immigration system.

The Fulops' story is a compelling one and one which I believe merits Congress' consideration for humanitarian relief.

The most poignant tragedy to affect this family occurred in May of 2000, when the Fulops' eldest child, Robert ''Bobby'' Fulop, an accomplished 15-year-old teenager, died suddenly of a heart aneurism. Bobby was considered the shining star of his family.

That same year their 6-year-old daughter, Elizabeth, was diagnosed with moderate pulmonary stenosis, a potentially life-threatening heart condition and a frightening situation similar to Bobby's. Not long ago, she successfully underwent heart surgery, but requires medical supervision to ensure her good health.

The Fulops' youngest child, Matthew, was born seven weeks premature. He subsequently underwent several kidney surgeries and is still being closely monitored by physicians.

Compounding these tragedies is the fact that today the Fulops face deportation. They face deportation, in part, because in 1995 the family traveled to Hungary and remained there for more than 90 days.

Under the pre-1996 immigration law, prior to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, their stay in Hungary would not have been a factor in their immigration case and they would have been eligible for adjustment of status to lawful permanent residents.

Indeed, in 1996, Mr. and Mrs. Fulop applied to the Immigration and Naturalization Service, INS, for permanent resident status. Due to large backlogs, the INS did not interview them until 1998. By the time their applications were considered, the new 1996 immigration law had taken effect.

Given their one-time 90 day trip outside the United States, they were statutorily ineligible for relief pursuant to the cancellation of removal provisions of the Immigration and Nationality Act.

One cannot help but conclude that had the INS acted on the Fulops' application for relief from deportation in a timelier manner, they would have qualified for suspension of deportation under the pre-1996 law, given that they were long-term residents of the United States with U.S. citizen children and many positive factors in their favor.

The irony of this situation is that the Fulops were gone from the United States for nearly five months in 1995 because they traveled to Hungary to help Mr. Fulop's brother build his home. Mr. Fulop's brother is handicapped and they went to help remodel his home.

The Fulops are good and decent people. Mr. Fulop is a masonry contractor and the Owner and President of his own construction company—Sumeg International. He has owned this business for almost 14 years.

The couple is active in their church and community. As Pastor Peter Petrovic of the Apostolic Christian Church of San Diego says in his letter of support, ''[t]he family is an exceptional asset to their community.'' Mrs. Fulop has served as a Sunday school teacher and volunteers regularly at Heritage K–8 Charter School in Escondido. Mrs. Morris, a Heritage K–8 Charter School faculty member says in her letter of support that Mrs. Fulop is ''. . . a valuable asset to our school and community.''

Mr. President, this is a tragic situation. Essentially, as happened to many families under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the rules of the game were changed in the middle. When the Fulops applied for relief from deportation they were eligible for suspension of deportation. By the time the INS got around to their application, nearly three years later, they were no longer eligible and in fact suspension of deportation as a form of relief ceased to exist.

The Fulops today have been in the United States since the early 1980s. Most harmful is the effect that their deportation will have on the children, all of whom were born here and who range from five years old to 21 years of age. Their two eldest children are attending college, one studying structural engineering and the other studying to become a dental hygienist.

It is my hope that Congress sees fit to provide an opportunity for this family to remain together in the United States given their many years here, the profound sadness they have already experienced and the harm that would come from their deportation to their six U.S. citizen children.

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

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

S. 120

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

**SECTION 1. ADJUSTMENT OF STATUS.**

(a) IN GENERAL.—Notwithstanding any other provision of law or any order, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Denes Fulop and Gyorgyi Fulop shall be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for issuance of an immigrant visa or for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255).

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the applications for issuance of immigrant visas or the applications for adjustment of status are filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of immigrant visas to Denes Fulop and Gyorgyi Fulop, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Denes Fulop and Gyorgyi Fulop under section or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are of birth of Denes Fulop and Gyorgyi Fulop under section 202(e) of that Act (8 U.S.C. 1152(e)).

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By Mrs. FEINSTEIN:

S. 121. A bill for the relief of Esidronio Arreola-Saucedo, Maria Elna Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private immigration relief legislation to provide lawful permanent residence status to Esidronio Arreola-Saucedo, Maria Elena Cobian Arreola, Nayely Bibiana Arreola and Cindy Jael Arreola, Mexican nationals living in the Fresno area of California.

Mr. and Mrs. Arreola have lived in the United States for over 20 years. Two of their five children, Nayely, age 23, and Cindy, age 19, also stand to benefit from this legislation. Their other three children, Roberto, age 16, Daniel, age 13, and Saray, age 11, are United States citizens. Today, Mr. and Mrs. Arreola and their two eldest children face deportation.

The story of the Arreola family is compelling and I believe they merit Congress' special consideration for such an extraordinary form of relief as a private bill.

The Arreolas are in this uncertain situation in part because of grievous errors committed by their previous counsel, who has since been disbarred. In fact, the attorney's conduct was so egregious that it compelled an immigration judge to write the Executive Office of Immigration Review seeking his disbarment for the disservice he caused his immigration clients.

Mr. Arreola has lived in the United States since 1986. He was an agricultural migrant worker in the fields of California for several years, and as such would have been eligible for permanent residence through the Seasonal Agricultural Workers, SAW, program, had he known about it.

Mrs. Arreola was living in the United States at the time she became pregnant with her daughter Cindy, but returned to Mexico to give birth so as to avoid any problems with the Immigration and Naturalization Service.

Given the length of time that the Arreolas had, and have been, in the United States it is quite likely that they would have qualified for relief from deportation pursuant to the cancellation of removal provisions of the Immigration and Nationality Act, but for the conduct of their previous attorney.

Perhaps one of the most compelling reasons for permitting the family to remain in the United States is the devastating impact their deportation would have on their children—three of whom are U.S. citizens—and the other two who have lived in the United States since they were toddlers. For these children, this country is the only country they really know.

Nayely, the oldest, recently graduated from Fresno Pacific University with a degree in Business Administration and was recently hired as a substitute teacher in Tulare County. She was the first in her family to graduate from high school and the first to graduate college. She attended Fresno Pacific University, a regionally ranked university, on a full tuition scholarship package and worked part-time in the admissions office.

At her young age, Nayely has demonstrated a strong commitment to the ideals of citizenship in her adopted country. She has worked hard to achieve her full potential both in her academic endeavors and through the service she provides her community. As the Associate Dean of Enrollment Services, Cary Templeton, at Fresno Pacific University states in a letter of support, ''[t]he leaders of Fresno Pacific University saw in Nayely, a young person who will become exemplary of all that is good in the American dream.''

In high school, Nayely was a member of Advancement Via Individual Determination, AVID, a college preparatory program in which students commit to determining their own futures through achieving a college degree. Nayely was also President of the Key Club, a community service organization. She helped mentor freshmen and participates in several other student organizations in her school. Perhaps the greatest hardship to this family, if forced to return to Mexico, will be her lost opportunity to realize her dreams and further contribute to her community and to this country.

It is clear to me that Nayely feels a strong sense of responsibility for her community and country. By all indication, this is the case as well for all of the members of her family.

The Arreolas also have other family who are lawful permanent residents of this country or United States citizens. Mrs. Arreola has three brothers who are U.S. citizens and Mr. Arreola has a sister who is a U.S. citizen. It is also my understanding that they have no immediate family in Mexico.

According to immigration authorities, this family has never had any problems with law enforcement. I am told that they have filed their taxes for every year from 1990 to the present. They have always worked hard to support themselves. As I previously mentioned, Mr. Arreola was previously employed as a farm worker, but now has his own business repairing electronics. His business has been successful enough to enable him to purchase a home for his family.

It seems so clear to me that this family has embraced the American dream and their continued presence in our country would do so much to enhance the values we hold dear. Enactment of the legislation I have reintroduced today will enable the Arreolas to continue to make significant contributions to their community as well as the United States.

I ask my colleagues to support this private bill.

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

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

S. 121

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

**SECTION 1. ADJUSTMENT OF STATUS.**

(a) IN GENERAL.—Notwithstanding any other provision of law or any order, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Esidronio Arreola-Saucedo, Maria Elna Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola shall be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for issuance of an immigrant visa or for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255).

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the applications for issuance of immigrant visas or the applications for adjustment of status are filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of immigrant visas to Esidronio Arreola-Saucedo, Maria Elna Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola, the Secretary of State shall instruct the proper officer to reduce by 4, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Esidronio Arreola-Saucedo, Marina Elna Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Esidronio Arreola-Saucedo, Maria Elna Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola under section 202(e) of such Act (8 U.S.C. 1152(c)).

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By Mrs. FEINSTEIN:

S. 122. A bill for the relief of Robert Liang and Alice Liang; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Robert Kuan Liang and his wife, Chun-Mei, Alice, Hsu-Liang, foreign nationals who live in San Bruno, California.

I have decided to reintroduce private relief immigration bills on their behalf because I believe that, without them, this hardworking couple and their three United States citizen children would endure an immense and unfair hardship. Indeed, without this legislation, this family may not remain a family for much longer.

The Liangs are foreign nationals facing deportation on account of their overstay of visitors visas and the failure of their previous attorney to timely file a suspension of deportation application before the immigration laws changed in 1996.

Mr. Liang is a foreign national and refugee from Laos. His wife is a citizen of Taiwan. They entered the United States over 25 years ago as tourists and established residency in San Bruno, California. Because they overstayed the terms of their temporary visas, they now face deportation from the United States.

After living here for so many years, removal from the United States would not come easily or perhaps without tearing this family apart. The Liangs have three children born in this country: Wesley, 17 years old, Bruce, 13 years old, and Eva, 11 years old. Young Wesley suffers from asthma and has a history of social and emotional anxiety.

The immigration judge who presided over the Liangs' case in 1997 concluded that there was no question that the Liang children would be adversely impacted if they were required to leave their relatives and friends behind in California to follow their parents to Taiwan, a country whose language and culture is unfamiliar to them.

I can only imagine how much more they would be adversely impacted now given the passage of 9 more years.

The Liangs have filed annual income tax returns; established a successful business, Fong Yong Restaurant, in the United States; are home owners, and

are financially successful. Since they arrived in the United States, they have pursued and, to a degree, achieved the American Dream.

Mr. and Mrs. Liang's quest to legalize their immigration status began in 1993 when they filed for relief from deportation before an immigration judge.

The Immigration and Naturalization Service, however, did not act on their application until nearly 5 years later, in 1997, after which time the immigration laws had significantly changed.

According to the immigration judge, had the INS acted on their application for relief from deportation in a timely manner, they would have qualified for suspension of deportation, given that they were long-term residents of this country with U.S. citizen children and other positive factors. By the time INS processed their application, however, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which changed the requirements for relief from removal to the Liangs' disadvantage.

I supported the changes of the 1996 law, but I believe sometimes there are exceptions which merit special consideration. The Liangs are such a couple and family. Perhaps what distinguishes this family from many others is that through hard work and perseverance, Mr. Liang has achieved a significant degree of success in the United States while battling a severe form of Post Traumatic Stress Disorder.

According to his psychologist, this disorder stems from the persecution he, his family and community experienced in his native country of Laos during the Vietnam War.

Throughout his childhood and adolescence, Mr. Liang was exposed to numerous traumatic experiences, including the murder of his mother by the North Vietnamese and frequent episodes of wartime violence. He also routinely witnessed the brutal persecution and deaths of others in his village. In 1975, he was granted refugee status in Taiwan.

The emotional impact of Mr. Liang's experiences in his war-torn native country has been profound and continues to haunt him. His psychologist has also indicated that he suffers from severe clinical depression, which has been exacerbated by the prospect of being deported to Taiwan, where on account of his nationality, he believes he and his family would be treated as second-class citizens.

Moreover, Mr. Liang believes that the pursuit of further mental health treatment in Taiwan would only exacerbate the stigma of being an outsider in a country whose language he does not speak. Given those prospects, he also fears the impact such a stigma would have on the well-being and future of his children.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of the Liangs. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 122

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

**SECTION 1. ADJUSTMENT OF STATUS.**

(a) IN GENERAL.—Notwithstanding any other provision of law or any order, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Robert Liang and Alice Liang shall be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for issuance of an immigrant visa or for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255).

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the applications for issuance of immigrant visas or the applications for adjustment of status are filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of immigrant visas to Robert Liang and Alice Liang, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Robert Liang and Alice Liang under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)), or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Robert Liang and Alice Liang under section 202(e) of that Act (8 U.S.C. 1152(e)).

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By Mrs. FEINSTEIN:

S. 123. A bill for the relief of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am reintroducing legislation to provide lawful permanent residence status to Jose Buendia Balderas, his wife, Alicia Aranda De Buendia, and their daughter, Ana Laura Buendia Aranda, Mexican nationals who have been living and working in the Fresno area of California for over 20 years.

Jose Buendia is a remarkable individual who epitomizes the American dream. His father worked as an agricultural laborer in the Bracero program over 25 years ago. In 1981, Jose followed his father to the United States—where he worked in the shadows to help provide for his family in Mexico.

Since then, Jose has moved from working as a landscaper to construction, where he is now a valued employee of Bone Construction in Reedley, California. He has been employed by this cement company for the past 8 years. Although he knew nothing about construction when he began working in the field, he was disciplined and persistent in his training and is now a lead foreman.

His employer, Timothy Bone, says Mr. Buendia is a ''reliable, hard-working and conscientious'' employee. In fact, it was Mr. Bone who contacted my office to seek relief for Mr. Buendia.

Alicia Buendia, Jose Buendia's wife, has been working as a seasonal fruit packer for several years. The family has consistently paid all of their taxes. Recently, they paid off their mortgage and today, they are debt free. They have health insurance, savings and retirement accounts, participate in the company profit-sharing company, and support their family here and in Mexico. In short, they are living the American dream.

Their daughter, Ana Laura, is an outstanding student. She earned a 4.0 GPA at Reedley High School and was awarded an academic scholarship to the University of California–Berkeley. Unfortunately, because of her immigration status, she was unable to accept the scholarship and her parents now pay full out-of-state tuition for her to attend the University of California–Irvine. She is now completing her second year there.

Their son, Jose, is a U.S. citizen, and graduated high school with a 3.85 grade point average and honors, and is currently an engineering student at Reedley Junior College. For both Jose and Ana Laura, the United States is the only country they know.

What makes the story of the Buendias so tragic is that they would have been eligible to correct their illegal status but for the unscrupulous practices of their former immigration attorney.

Because Mr. Buendia has been in this country for so long, he qualified for legalization pursuant to the Immigration and Reform Control Act of 1986. Unfortunately, his legalization application was never acted upon because his attorney, Jose Velez, was convicted of fraudulently submitting legalization and Special Agricultural Worker applications.

This criminal conduct tainted all of Mr. Velez's clients. Although Mr. Buendia's application was found not to contain any fraudulent documentation, it was submitted while his lawyer was under investigation. The result was that Mr. Buendia was unable to be interviewed and obtain legal status.

To complicate matters, it took the Immigration and Naturalization Service nearly 7 years to determine that Mr. Buendia's application contained no fraudulent information. In the meantime, the Immigration and Naturalization Service reinterpreted the law and determined that he was no longer eligible for relief because he had left the United States briefly when he married his wife.

Despite these setbacks, the Buendia family has continued to seek legal status. They believed they were successful when an immigration judge granted the family relief based on the hardship their U.S. citizen son would face if his family was deported to Mexico. Unfortunately, the government appealed the judge's decision and had it overturned by the Board of Immigration Appeals.

Despite the problems with adjusting their legal status, this family has forged ahead and continued to play a meaningful role in their community.

They have worked hard. They have invested in their neighborhood. They are active in the PTA and their local church.

I believe the Buendia family should be allowed to continue to live in this country that has become their own. If this legislation is approved, the Buendias will be able to continue to contribute significantly to the United States. It is my hope that Congress passes this private legislation.

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

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

S. 123

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

**SECTION 1. PERMANENT RESIDENT STATUS FOR JOSE BUENDIA BALDERAS, ALICIA ARANDA DE BUENDIA, AND ANA LAURA BUENDIA ARANDA.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Jose Buendia Balderas, Alicia Aranda De Buendia, or Ana Laura Buendia Aranda enter the United States before the filing deadline specified in subsection (c), Jose Buendia Balderas, Alicia Aranda De Buendia, or Ana Laura Buendia Aranda, as appropriate, shall be considered to have entered and remained lawfully in the United States and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for the issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda, the Secretary of State shall instruct the proper officer to reduce by 3, during the current or next following fiscal year—

(1) the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)); or

(2) if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 202(e) of such Act (8 U.S.C. 1152(e)).

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By Mrs. FEINSTEIN:

S. 124. A bill for the relief of Shigeru Yamada; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Shigeru Yamada, a 24-year-old Japanese national who lives in Chula Vista, California. The House passed a private relief bill on behalf of Mr. Yamada last year, but unfortunately we were unable to move the bill in the Senate before the end of the 110th Congress.

I have decided to re-introduce a private bill on his behalf because I believe that Mr. Yamada represents a model American citizen, for whom removal from this country would represent an unfair hardship. Without this legislation, Mr. Yamada will be forced to return to a country in which he lacks any linguistic, cultural or family ties.

Mr. Yamada legally entered the United States with his mother and two sisters in 1992 at the young age of 10. The family was fleeing from Mr. Yamada's alcoholic father, who had been physically abusive to his mother, the children and even his own parents. Since then, he has had no contact with his father and is unsure if he is even alive. Tragically, Mr. Yamada experienced further hardship when his mother was killed in a car crash in 1995. Orphaned at the age of 13, Mr. Yamada spent time living with his aunt before moving to Chula Vista to live with a close friend of his late mother.

The death of his mother marked more than a personal tragedy for Mr. Yamada; it also served to impede the process for him to legalize his status. At the time of her death, Mr. Yamada's family was living legally in the United States. His mother had acquired a student visa for herself and her children qualified as her dependants. Her death revoked his legal status in the United States.

In addition, Mr. Yamada's mother was engaged to an American citizen at the time of her death. Had she survived, her son would likely have become an American citizen through this marriage.

Mr. Yamada has exhausted all administrative options under our current immigration system. Throughout high school, he contacted attorneys in the hopes of legalizing his status, but his attempts were unsuccessful. Unfortunately, time has run out and, for Mr. Yamada, the only option available to him today is private relief legislation.

For several reasons, it would be tragic for Mr. Yamada to be deported from the United States and forced to return to Japan.

First, since arriving in the United States, Mr. Yamada has lived as a model American. He graduated with honors from Eastlake High School in 2000, where he excelled in both academics and athletics. Academically, he earned a number of awards including being named an ''Outstanding English Student'' his freshman year, an All-American Scholar, and earning the United States National Minority Leadership Award.

His teacher and coach, Mr. John describes him as being ''responsible, hard working, organized, honest, caring and very dependable.'' His role as the vice president of the Associated Student Body his senior year is an indication of Mr. Yamada's high level of leadership, as well as, his popularity and trustworthiness among his peers.

As an athlete, Mr. Yamada was named the ''Most Inspirational Player of the Year'' in junior varsity baseball and football, as well as, varsity football. His football coach, Mr. Jose Mendoza, expressed his admiration by saying that he has ''seen in Shigeru Yamada the responsibility, dedication and loyalty that the average American holds to be virtuous.''

Second, Mr. Yamada has distinguished himself as a local volunteer. As a member of the Eastlake High School Link Crew, he helped freshman find their way around campus, offered tutoring and mentoring services, and set an example of how to be a successful member of the student body. After graduating from high school, he volunteered his time for 4 years as the coach of the Eastlake High School Girl's softball team. The former head coach, who has since retired, Dr. Charles Sorge, describes him as an individual full of ''integrity'' who understands that as a coach it is important to work as a ''team player.''

His level of commitment to the team was further illustrated to Dr. Sorge when he discovered, halfway through the season, that Mr. Yamada's commute to and from practice was 2 hours long each way. It takes an individual with character to volunteer his time to coach and never bring up the issue of how long his commute takes him each day. Dr. Sorge hopes that, once Mr. Yamada legalizes his immigration status, he will be formally hired to continue coaching the team.

Third, sending Mr. Yamada back to Japan would be an immense hardship for him and his family here. Mr. Yamada does not speak Japanese. He is unaware of the nation's current cultural trends.

And, he has no immediate family members that he knows of in Japan. All of his family lives in California. Sending Mr. Yamada back to Japan would serve to split his family apart and separate him from everyone and everything that he knows.

His sister contends that her younger brother would be ''lost'' if he had to return to live in Japan on his own. It is unlikely that he would be able to find any gainful employment in Japan due to his inability to speak or read the language.

As a member of the Chula Vista community, Mr. Yamada has distinguished himself as an honorable individual. His teacher, Mr. Robert Hughes, describes him as being an ''upstanding 'All-American' young man''. Until being picked up during a routine check of riders' immigration status on a city bus, he had never been arrested or convicted of any crime. Mr. Yamada is not, and has never been, a burden on

the State. He has never received any Federal or State assistance.

With his hard work and giving attitude, Shigeru Yamada represents the ideal American citizen. Although born in Japan, he is truly American in every other sense.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of Mr. Yamada. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 124

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

**SECTION 1. PERMANENT RESIDENT STATUS FOR SHIGERU YAMADA.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Shigeru Yamada shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Shigeru Yamada enters the United States before the filing deadline specified in subsection (c), Shigeru Yamada shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Shigeru Yamada, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Shigeru Yamada under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Shigeru Yamada under section 202(e) of that Act (8 U.S.C. 1152(e)).

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By Mrs. FEINSTEIN:

S. 125. A bill for the relief of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to offer legislation to provide lawful permanent residence status to Alfredo Plascencia Lopez and his wife, Maria del Refugio Plascencia, Mexican nationals who live in the San Bruno area of California.

I have decided to offer legislation on their behalf because I believe that, without it, this hardworking couple and their four United States citizen children would endure an immense and unfair hardship. Indeed, without this legislation, this family may not remain a family for much longer.

The Plascencia's have worked for years to adjust their status through the appropriate legal channels, only to have their efforts thwarted by inattentive legal counsel. Repeatedly, the Plascencia's lawyer refused to return their calls or otherwise communicate with them in anyway. He also failed to forward crucial immigration documents, or even notify the Plascencias that he had them. Because of the poor representation they received, Mr. and Mrs. Plascencia only became aware that they had been ordered to leave the country 15 days prior to their deportation.

Although the family was stunned and devastated by this discovery, they acted quickly to secure legitimate counsel and to file the appropriate paperwork to delay their deportation to determine if any other legal action could be taken.

For several reasons, it would be tragic for this family to be removed from the United States.

First, since arriving in the United States in 1988, Mr. and Mrs. Plascencia have proven themselves to be a responsible and civic-minded couple who share our American values of hard work, dedication to family, and devotion to community.

Second, Mr. Plascencia has been gainfully employed at Vince's Shellfish for the over 14 years, where his dedication and willingness to learn have propelled him from part-time work to a managerial position. He now overseas the market's entire packing operation and several employees.

The president of the market, in one of the several dozen letters I have received in support of Mr. Plascencia, referred to him as ''a valuable and respected employee'' who ''handles himself in a very professional manner'' and serves as ''a role model'' to other employees. Others who have written to me praising Mr. Plascencia's job performance have referred to him as ''gifted,'' ''trusted,'' ''honest,'' and ''reliable.''

Third, like her husband, Mrs. Plascencia has distinguished herself as a medical assistant at a Kaiser Permanente hospital in the Bay Area. Not satisfied with working as a maid at a local hotel, Mrs. Plascencia went to school, earned her high school equivalency degree and improved her skills to become a medical assistant.

Those who have written to me in support of Mrs. Plascencia, of which there are several, have described her work as ''responsible,'' ''efficient,'' and ''compassionate.''

In fact, Kaiser Permanente's Director of Internal Medicine, Nurse Rose Carino, wrote to say that Mrs. Plascencia is ''an asset to the community and exemplifies the virtues we Americans extol: hardworking, devoted to her family, trustworthy and loyal, [and] involved in her community. She and her family are a solid example of the type of immigrant that America should welcome wholeheartedly.''

Mrs. Carino went on to write that Mrs. Plascencia is ''an excellent employee and role model for her colleagues. She works in a very demanding unit, Oncology, and is valued and depended on by the physicians she works with.''

Together, Mr. and Mrs. Plascencia have used their professional successes to realize many of the goals dreamed of by all Americans. They saved up and bought a home. They own a car. They have good health care benefits and they each have begun saving for retirement. They want to send their children to college and give them an even better life.

This legislation is important because it would preserve these achievements and ensure that Mr. and Mrs. Plascencia will be able to make substantive contributions to the community in the future.

It is important, also, because of the positive impact it will have on the couple's children, each of whom is a United States citizen and each of whom is well on their way to becoming productive members of the Bay Area community.

Christina, 17, is the Plascencia's oldest child, and an honor student. Erika, 14, and Alfredo, Jr., 12, have worked hard at their studies and received praise and good grades from their teachers. In fact, the principal of Erika's school has recognized her as the ''Most Artistic'' student in her class. Erika's teacher, Mrs. Nascon, remarked on a report card, ''Erika is a bright spot in my classroom.''

The Plascencia's also have two young children: 6-year-old Daisy and 2-year-old Juan-Pablo.

Removing Mr. and Mrs. Plascencia from the United States would be tragic for their children. Children who were born in the United States and who through no fault of their own have been thrust into a situation that has the potential to dramatically alter their lives.

It would be especially tragic for the Plascencia's older children—Christina, Erika, and Alfredo—to have to leave the United States. They are old enough to understand that they are leaving their schools, their teachers, their friends, and their home. They would leave everything that is familiar to them.

Their parents would find themselves in Mexico without a job and without a house. The children would have to acclimate to a different culture, language, and way of life.

The only other option would be for Mr. and Mrs. Plascencia to leave their children here with relatives. This separation is a choice which no parents should have to make.

Many of the words I have used to describe Mr. and Mrs. Plascencia are not my own. They are the words of the Americans who live and work with the Plascencias day in and day out and who find them to embody the American spirit.

I have sponsored this legislation, and asked my colleagues to support it, because I believe that this is a spirit that we must nurture wherever we can find it. Forcing the Plascencias to leave the United States would extinguish that spirit. I ask my colleagues to support this private bill on behalf of the Plascencia family.

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

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

S. 125

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

**SECTION 1. PERMANENT RESIDENT STATUS FOR ALFREDO PLASCENCIA LOPEZ AND MARIA DEL REFUGIO PLASCENCIA.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Alfredo Plascencia Lopez and Maria Del Refugio Plascencia shall each be eligible for the issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Alfredo Plascencia Lopez or Maria Del Refugio Plascencia enter the United States before the filing deadline specified in subsection (c), Alfredo Plascencia Lopez or Maria Del Refugio Plascencia, as appropriate, shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of immigrant visas or the application for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of immigrant visas or permanent residence to Alfredo Plascencia Lopez and Maria Del Refugio Plascencia, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia under section 202(e) of that Act (8 U.S.C. 1152(e)).

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By Mrs. FEINSTEIN:

S. 126. A bill for the relief of Claudia Marquez Rico; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am offering today private relief legislation to provide lawful permanent residence status to Claudia Marquez Rico, a Mexican national living in Redwood City, CA.

Born in Jalisco, Mexico, Claudia was brought to the United States by her parents 16 years ago.

Claudia was just 6 years old at the time. She has two younger brothers, Jose and Omar, who came to America with her, and a sister, Maribel, who was born in California and is a U.S. Citizen. America is the only home they know.

Eight years ago that home was visited by tragedy. As Mr. and Mrs. Marquez were driving to work early on the morning of October 4, 2000, they were both killed in a horrible traffic accident when their car collided with a truck on an isolated rural road.

The children went to live with their aunt and uncle, Hortencia and Patricio Alcala. The Alcalas are a generous and loving couple. They are U.S. citizens with two children of their own and took the Marquez children in and did all they could to comfort them in their grief. They supervised their schooling, and made sure they received the counseling they needed, too. The family is active in their parish at Buen Pastor Catholic Church, and Patricio Alcala serves as a youth soccer coach. In 2001, the Alcalas were appointed the legal guardians of the Marquez children.

Sadly, the Marquez family received poor legal representation. At the time of their parents' death, Claudia and Jose were minors, and qualified for special immigrant juvenile status. This category was enacted by Congress to protect children like them from the hardship that would result from deportation under such extraordinary circumstances, when a State court deems them to be dependents due to abuse, abandonment or neglect.

Today, their younger brother Omar is a U.S. Citizen, due to his adjustment as a special immigrant juvenile. Unfortunately, the family's previous lawyer failed to secure this relief for Claudia, and she has now reached the age of majority without having resolved her immigration status.

I should note that their former lawyer, Walter Pineda, is currently answering charges on 29 counts of professional incompetence and 5 counts of moral turpitude for mishandling immigration cases and appears on his way to being disbarred.

I am offering legislation on Claudia's behalf because I believe that, without it, this family would endure an immense and unfair hardship. Indeed, without this legislation, this family will not remain a family for much longer.

Despite the adversity they encountered, Claudia finished school. She supports herself, her 17-year-old sister, Maribel, and her younger brother Omar. Again, both Maribel and Omar are now U.S. Citizens.

Claudia has no close relatives in Mexico. She has never visited Mexico, and she was so young when she was brought to America that she has no memories of it. How can we expect her to start a new life there now?

It would be a grave injustice to add to this family's misfortune by tearing these siblings apart. This is a close family, and they have come to rely on each other heavily in the absence of their deceased parents. This bill will prevent the added tragedy of another wrenching separation.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of Claudia Rico.

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

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

S. 126

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

**SECTION 1. PERMANENT RESIDENT STATUS FOR CLAUDIA MARQUEZ RICO.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Claudia Marquez Rico shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Claudia Marquez Rico enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and, if otherwise eligible, shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Claudia Marquez Rico, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Claudia Marquez Rico under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Claudia Marquez Rico under section 202(e) of such Act (8 U.S.C. 1152(e)).

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Claudia Marquez Rico shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

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By Mrs. FEINSTEIN:

S. 127. A bill for the relief of Jacqueline W. Coats; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Jacqueline Coats, a 28-year-old widow currently living in San Francisco.

Mrs. Coats came to the U.S. in 2001 from Kenya on a student visa to study Mass Communications at San Jose State University. Her visa status lapsed in 2003, and the Department of

Homeland Security began deportation proceedings against her.

Mrs. Coats married Marlin Coats on April 17, 2006, after dating for several years. The couple was happily married and planning to start a family when, on May 13, Mr. Coats tragically died in a heroic attempt to save two young boys from drowning.

The couple had been on a Mother's Day outing at Ocean Beach with some of Mr. Coats' nephews when they heard cries for help. Having worked as a lifeguard in the past, Mr. Coats instinctively dove into the water. The two children were saved with the help of a rescue crew, but Mr. Coats, caught in a riptide, died. Mrs. Coats received a medal honoring her husband.

Four days before Mr. Coats' death, the couple prepared and signed an application for a green card at their attorney's office. Unfortunately the petition was not filed until after his death, rendering it invalid. Mrs. Coats currently has a hearing before an immigration judge in San Francisco on August 24, but her attorney has informed my staff that she has no relief available to her and will be ordered deported.

Mrs. Coats, devastated by the loss of her husband, is now caught in a battle for her right to stay in America. At a recent news conference with her lawyer, Thip Ark, she explained of her situation, ''I feel like I have nothing to live for. I have nothing to go home to . . . I've been here four years . . . It would be like starting a new life.''

Ms. Ark explains that Mrs. Coats is extremely close with her late husband's family, with whom she lives in San Leandro, California. Mrs. Coats has said that her husband's large family has become her own. Ramona Burton of San Francisco, one of Marlin Coats' seven brothers and sisters explains, ''She spent her first American Christmas with us, her first American Thanksgiving . . . I can't imagine looking around and not seeing her there. She needs to be there.''

The San Francisco and Bay Area community has rallied strong support for Mrs. Coats. The San Francisco chapters of the NAACP, the San Francisco Board of Supervisors, and the San Francisco Police Department, have all passed resolutions in support of Mrs. Coats' right to remain in the country.

Unfortunately, if this private relief bill is not approved, this young woman, and the Coats family, will face yet another disorienting and heartbreaking tragedy. Mrs. Coats will be deported to Kenya, a country she has not lived in since she was 21. In her time of grieving, she will be forced to leave her home, her job with AC Transit, her new family, and everything she has known for the past 5 years.

I cannot think of a compelling reason why the United States should not allow this young widow to continue the green card process. Had her husband lived, Mrs. Coats would have filed the papers without difficulty. It was because of her husband's selfless and heroic act that Mrs. Coats must now struggle to remain in the country. As one concerned California constituent wrote to me, ''If ever there was a case where common fairness, morality and decency should reign over legal technicalities, this is it. We, as a country, need to reward heroism and good.''

I believe that we can reward the late Mr. Coats for his noble actions by granting his wife citizenship. It is what he intended for her. It can even be argued that a green card for his wife was one of his dying wishes, as the papers were signed just 4 days prior to his death.

For these reasons, I reintroduce this private relief immigration bill and ask my colleagues to support it on behalf of Mrs. Coats.

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

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

S. 127

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

**SECTION 1. PERMANENT RESIDENT STATUS FOR JACQUELINE W. COATS.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Jacqueline W. Coats shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Jacqueline W. Coats enters the United States before the filing deadline specified in subsection (c), Jacqueline W. Coats shall be considered to have entered and remained lawfully in the United States and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Jacqueline W. Coats, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Jacqueline W. Coats under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jacqueline W. Coats under section 202(e) of that Act (8 U.S.C. 1152(e)).

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By Mrs. FEINSTEIN:

S. 128. A bill for the relief of Jose Alberto Martinez Moreno, Micaela Lopez Martinez, and Adilene Martinez; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am reintroducing private immigration relief legislation to provide lawful permanent residence status to Jose Alberto Martinez Moreno and Micaela Lopez Martinez and their daughter, Adilene Martinez—Mexican nationals now living in San Francisco, California.

This family embodies the true American success story and I believe they merit Congress' special consideration for such an extraordinary form of relief as a private bill.

Mr. Martinez came to the United States eighteen years ago from Mexico. He started working as a bus boy in restaurants in San Francisco. In 1990, he began working as a cook at Palio D'Asti, an award winning Italian restaurant in San Francisco.

According to the people who worked with him, he ''never made mistakes, never lost his temper, and never seemed to sweat.''

Over the years, Jose Martinez has worked his way through the ranks. Today, he is the sous chef at Palio, where he is respected by everyone in the restaurant, from dishwashers to cooks, busboys to waiters, bartenders to managers.

Mr. Martinez has unique skills: he is an excellent chef; he is bilingual; he is a leader in the workplace. He is described as ''an exemplary employee'' who is not only ''good at his job, but is also a great boss to his subordinates.''

He and his wife, Micaela, have made a home in San Francisco. Micaela has been working as a housekeeper. They have three daughters, two of whom are United States citizens. Their oldest child Adilene, 20, is undocumented. Adilene recently graduated from the Immaculate Conception Academy and is attending San Francisco City College.

One of the most compelling reasons for allowing the family to remain in the United States is that they are eligible for a green card. Unfortunately, there is such a back log for green cards right now that even though he has a work permit, owns a home in San Francisco, works two jobs, and has been in the United States for twenty years with a clean record, he and his family will be deported.

Mr. Martinez and his family have applied unsuccessfully for legal status several ways:

In May 2002, Mr. and Mrs. Martinez filed for political asylum. Their case was denied and a subsequent application for a Cancellation of Removal was also denied because the immigration court judge could not find ''requisite hardship'' required for this relief.

Ironically, the immigration judge who reviewed their case found that Mr. Martinez's culinary ability was a negative factor—as it indicated that he could find a job in Mexico.

In 2001, his sister, who has legal status, petitioned for Mr. Martinez to get a green card. Unfortunately, because of the current green card backlog, Mr. Martinez has several years to wait before he is eligible for a green card.

Finally, Daniel Scherotter, the executive chef and owner of Palio D'Asti, has petitioned for legal status for Mr. Martinez based on Mr. Martinez's unique skills as a chef. Although Mr. Martinez's work petition was approved by U.S. Citizenship and Immigration Services, there is a backlog on these visas, and Mr. Martinez is on a waiting list for a green card through this channel, as well.

Mr. and Mrs. Martinez have no other administrative options available to them at this point and if deported, they will face a 5 to 10 year ban from returning to the United States. In addition, this bill remains the only means for Adilene to gain legal status.

The Martinez family has become an important and valued part of their community. They are active members of their church, their children's school, and Comite de Padres Unido, a grassroots immigrant organization in California.

They volunteer extensively—advocating for safe new parks in the community for the children, volunteering at their children's school, and working on a voter registration campaign, even though they are unable to vote themselves.

In fact, I have received 46 letters of support from teachers, church members, and members of their community who attest to their honesty, responsibility, and long-standing commitment to their community. Their supporters include San Francisco Mayor Gavin Newsom; former Mayor Willie Brown; President of the San Francisco Board of Supervisors, Aaron Peskin; and the Director of Immigration Policy at the Immigrant Legal Resource Center, Mark Silverman.

This family has truly embraced the American dream. I believe their continued presence in our country would do so much to enhance the values we hold dear. Enactment of the legislation I have reintroduced today will enable the Martinez family to continue to make significant contributions to their community as well as the United States.

I ask my colleagues to support this private bill. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 128

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

**SECTION 1. ADJUSTMENT OF STATUS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Jose Alberto Martinez Moreno, Micaela Lopez Martinez, and Adilene Martinez shall each be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for adjustment of status to that of an alien lawfully admitted for permanent residence under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) upon filing an application for such adjustment of status.

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of permanent resident status to Jose Alberto Martinez Moreno, Micaela Lopez Martinez, and Adilene Martinez, the Secretary of State shall instruct the proper officer to reduce by 3, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of the birth of Jose Alberto Martinez Moreno, Micaela Lopez Martinez, and Adilene Martinez under section 202(e) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152(e) and 1153(a)), as applicable.

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By Mrs. FEINSTEIN:

S. 129. A bill for the relief of Ruben Mkoian, Asmik Karapetian, and Arthur Mkoyan; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am reintroducing a private relief bill on behalf of Ruben Mkoian, his wife, Asmik Karapetian and their son, Arthur Mkoyan. The Mkoian family are Armenian nationals who have been living and working in Fresno, California, for over a decade.

The story of the Mkoian family is compelling and I believe they merit Congress's special consideration for such an extraordinary form of relief as a private bill.

Let me first start with how the Mkoian family arrived in the United States. While in Armenia, Mr. Mkoian worked as a police sergeant in a division dealing with vehicle licensing. As a result of his position, he was offered a bribe to register 20 stolen vehicles.

He refused the bribe and reported the incident to the police chief. He later learned that his co-worker had registered the vehicles at the request of the chief.

After he reported the offense, Mr. Mkoian's supervisor informed him that the department was to undergo an inspection. Mr. Mkoian was instructed to take a vacation during this time period. Mr. Mkoian believed that the inspection was a result of the complaint that he had filed with the higher authorities.

During the inspection, however, Mr. Mkoian worked at a store that he owned rather than taking a vacation. During that time, individuals kept entering his store and attempted to damage it and break merchandise. When he threatened to call the police, he received threatening phone calls telling him to ''shut up'' or else he would ''regret it.'' Mr. Mkoian believed that these threats were related to the illegal vehicle registrations occurring in his department because he had nothing else to be silent about.

Later that same month, three men grabbed his wife and attempted to kidnap his child, Arthur, on the street. Mrs. Mkoian was told that her husband should ''shut up.'' No one suffered any injuries from the incident. In October 1991, a bottle of gasoline was thrown into the Mkoian's residence and their house was burned down. The final incident occurred on April 1, 1992, when four or five men assaulted Mr. Mkoian in his store. He was beaten and hospitalized for 22 days.

Following that experience, Mr. Mkoian left Armenia for Russia, and then came to the United States on a visitor's visa in search of a better life. Two years later he brought his wife Asmik and his then 3-year-old son Arthur to the United States, also on visitor's visas. The family applied for political asylum, but the 9th Circuit Court of Appeals denied their request in January 2008. Thus, the family has no further legal recourse by which to remain in the country other than this bill.

Since arriving in the United States, the family has thrived. Arthur is now 18 years old and the family has expanded to include Arsen, who is a U.S. citizen.

Both Arthur and Arsen are very special children. In high school, Arthur maintained a 4.0 grade point average and was a valedictorian for the class of 2008. I first introduced this bill on his graduation day. Today, Arthur is a freshman at the University of California, Davis.

Arsen is following in his older brother's footsteps. At age 12, he stands out among his peers and is on the honor roll at Tenaya Middle School in Fresno.

In addition to raising two outstanding children, Mr. and Mrs. Mkoian have maintained steady jobs and have devoted time and energy into the community and their church. Mr. Mkoian is working at HB Medical Transportation, as a driver in Fresno.

His wife, Asmik, has two jobs as a medical receptionist with Dr. Kumar in Fresno and as a sales clerk at Gottschalks Department Store. In addition, she has taken classes at Fresno Community College and has completed their Medical Assistant Program.

The family are active members of the St. Paul Armenian Church, and Mr. Mkoian is a member of the PTA of the St. Paul Armenian Saturday School.

There has been an outpouring of support for this family from their church, the schools their children attend, and the community at large.

To date, we have received over 200 letters of support for the family in addition to numerous telephone calls. I also note that I have letters from both Congressman GEORGE RADANOVICH and JIM COSTA, requesting that I offer this bill for the Mkoian family.

I truly believe that this case warrants our compassion and our extraordinary consideration.

I ask my colleagues to support this private bill. Mr. President, I ask by unanimous consent that the text of the bill be printed in the RECORD.

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

S. 129

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

**SECTION 1. PERMANENT RESIDENT STATUS FOR RUBEN MKOIAN, ASMIK KARAPETIAN, AND ARTHUR MKOYAN.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Ruben Mkoian, Asmik Karapetian, and Arthur Mkoyan shall each be eligible for the issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Ruben Mkoian, Asmik Karapetian, or Arthur Mkoyan enters the United States before the filing deadline specified in subsection (c), Ruben Mkoian, Asmik Karapetian, or Arthur Mkoyan, as appropriate, shall be considered to have entered and remained lawfully in the United States and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for the issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon granting an immigrant visa or permanent resident status to Ruben Mkoian, Asmik Karapetian, and Arthur Mkoyan, the Secretary of State shall instruct the proper officer to reduce by 3, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Ruben Mkoian, Asmik Karapetian, and Arthur Mkoyan under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Ruben Mkoian, Asmik Karapetian, and Arthur Mkoyan under section 202(e) of such Act (8 U.S.C. 1152(e)).

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By Mrs. FEINSTEIN:

S. 130. A bill for the relief of Jorge Rojas Gutierrez, Oliva Gonzalez Gonzalez, and Jorge Rojas Gonzalez; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am reintroducing a private relief bill on behalf of Jorge Rojas Gutierrez, his wife, Oliva Gonzalez Gonzalez, and their son, Jorge Rojas Gonzalez. The Rojas family members are Mexican nationals living in the San Jose area of California.

The story of the Rojas family is compelling, and I believe they merit Congress' special consideration for such an extraordinary form of relief as a private bill.

Mr. Rojas and his wife Ms. Gonzalez originally came to the United States in 1990 when their son Jorge Rojas, Jr. was just 2 years old. In 1995, they left the country to attend a funeral, and then re-entered on visitors' visas.

The family has since expanded to include a son, Alexis Rojas, now age 16, and a daughter Tania Rojas, now age 14.

Since arriving in the United States, this family has dedicated themselves to community involvement, a strong work ethic and volunteerism. They have been paying taxes since their arrival in 1990. The family has been described by their friends and colleagues as a ''model American family.'' I would like to tell you some more about each member of the Rojas family.

Mr. Rojas is a hard-working individual who has been employed by Valley Crest Landscape Maintenance in San Jose, California, for the past 14 years. Currently, Mr. Rojas works on commercial landscaping projects. He is well-respected by his supervisor and his peers.

In addition to supporting his family, Jorge has volunteered his time and talents to provide modern green landscaping and a recreational jungle gym to Sherman Oaks Community Charter School, where his two youngest children attend school.

Ms. Gonzalez, in addition to raising her three children, has been very active in the local community. She has worked to help other immigrants assimilate to American life by working as a translator and a tutor for immigrant children at Sherman Oaks Community Charter School and the Y.M.C.A. Kids after-school program.

She has also coached soccer teams, and has recently directed a Thanksgiving food drive. Ms. Gonzalez also devotes many hours of her time to the organization People Acting in Community Together, PACT, where she works to prevent crime, gangs and drug dealing in San Jose neighborhoods and schools.

Perhaps one of the most compelling reasons for permitting the family to remain in the United States is the impact their deportation would have on their three children. Two of the children, Alexis and Tania, are U.S. citizens. Jorge Rojas, Jr. has lived in the United States since he was a toddler. For these children, this country is the only country they really know.

Jorge Rojas, Jr., who entered the United States as an infant with his parents, is now 20 and is currently working at Jamba Juice. He graduated from Del Mar High School in 2007 and is currently taking classes at San Jose City College.

Alexis and Tania are students at Sherman Oaks Community Charter School. They are described by their teachers as ''fantastic, wonderful, and gifted'' students. In fact, the principal at Sherman Oaks has described all three of the children as ''honest, hard-working academic honor students'' and have commended all of them for their on-campus leadership.

It seems so clear to me that this family has embraced the American dream, and their continued presence in our country would do so much to enhance the values we hold dear. I have received 30 letters from the community in support of this family. Enactment of the legislation I have reintroduced today will enable the Rojas family to continue to make significant contributions to their community as well as the United States.

Mr. President, I ask my colleagues to support this private bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 130

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

**SECTION 1. PERMANENT RESIDENT STATUS FOR JORGE ROJAS GUTIERREZ, OLIVA GONZALEZ GONZALEZ, AND JORGE ROJAS GONZALEZ.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Jorge Rojas Gutierrez, Oliva Gonzalez Gonzalez, and Jorge Rojas Gonzalez shall each be eligible for the issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Jorge Rojas Gutierrez, Oliva Gonzalez Gonzalez, or Jorge Rojas Gonzalez enters the United States before the filing deadline specified in subsection (c), Jorge Rojas Gutierrez, Oliva Gonzalez Gonzalez, or Jorge Rojas Gonzalez, as appropriate, shall be considered to have entered and remained lawfully in the United States and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for the issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon granting an immigrant visa or permanent residence to Jorge Rojas Gutierrez, Oliva Gonzalez Gonzalez, and Jorge Rojas Gonzalez, the Secretary of State shall instruct the proper officer to reduce by 3, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Jorge Rojas Gutierrez, Oliva Gonzalez Gonzalez, and Jorge Rojas Gonzalez under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jorge Rojas Gutierrez, Oliva Gonzalez Gonzalez, and Jorge Rojas Gonzalez under section 202(e) of such Act (8 U.S.C. 1152(e)).

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By Mrs. FEINSTEIN:

S. 131. A bill to amend the Truth in Lending Act to provide for enhanced disclosure under an open end credit plan; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, today I am introducing the Credit Card Minimum Payment Notification Act.

This bill would help American consumers by requiring banks to notify credit card holders of the true cost if

they choose to make the minimum payment each month.

Americans today own more credit cards than ever before. The average American has approximately four credit cards. In 2007, 1 in 7 Americans held more than 10 cards.

Unsurprisingly, this increase in credit card ownership has resulted in a dramatic increase in credit card debt.

Over the past 2 decades, Americans' combined credit card debt has nearly tripled—from $238 billion in 1989 to a staggering $971 billion in 2008.

Today, the average American household has approximately $10,678 in credit card debt, up 29 percent from 2000.

Among credit card users, 55 percent carry a balance on their credit card, a 2 percent increase from last year.

Approximately 1 in 6 families with credit cards pays only the minimum due every month.

Young Americans are using credit cards to finance everything from daily expenses to college tuition. Forty-one percent of college students have a credit card, and, of those, only 65 percent pay their bills in full every month.

Over the past year, as economic conditions have worsened, it has become even harder for families to pay off their debt. Whether it is a mortgage, or tuition, or medical expenses, people are finding it harder than ever to meet all of their expenses.

In July of this year, 28 percent of people surveyed reported that their ability to pay off their credit card balances has become more strained.

This increasing debt is contributing to more and more Americans filing for bankruptcy.

Ever since the Bankruptcy Reform Act was enacted in 2005, non-business bankruptcies have been increasing at a rapid pace. The numbers this year already show a staggering hike. Between September 2007 and September 2008, Americans filed over one million non-business bankruptcies, up 30 percent from the previous year.

Many of these personal bankruptcies are people who are turning to credit cards to finance their expenses. Today's filers have even more credit card debt than usual—sometimes because they have been struggling to pay a mortgage and have started using credit cards for daily expenses.

One family, the Forsyths, found themselves in financial trouble after moving to a new State for a better job opportunity. Unable to sell their old house, they rented. But when the renter stopped making payments, the family became overwhelmed with two mortgage payments. Credit cards helped at first—providing payment for food, utilities, and clothes—but the family quickly accumulated $20,000 in debt and was left with no alternative other than bankruptcy.

The benefits offered by credit cards are attractive, but these cards also pose enormous financial risk. Dianne McLeod discovered this in a painful way after back-to-back medical emergencies depleted her finances. Although credit cards initially enabled her to maintain her lifestyle, before long these cards and two mortgages meant that she later found that she was spending more than 40 percent of her monthly income on interest payments, in addition to thousands of dollars annually in fees.

Today, credit cardholders receive no information on the impact of carrying a balance with compounding interest. As a result, too often individuals make only the minimum payment. After a few years, they find that the interest on the debt is almost twice the amount of their original purchases—and they do not know what to do about it.

I first introduced the Credit Card Minimum Payment Notification Act during the debate on the 2005 bankruptcy bill. As I said then, I believe the bill failed to balance responsibility and fairness. Consumers should not be so harshly penalized when they do not have the basic tools and information they need to make informed choices.

The Credit Card Minimum Payment Notification Act would help prevent this problem by requiring credit card companies to add two items to each consumer's monthly credit card statement:

A general notice that would read ''Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance.''

An individualized notice to credit card holders that specifies clearly on their bill how much time it will take to repay their debt and the total amount they will pay if they only make the minimum payments.

For consumers with variable rate cards, the bill would also require companies to provide a toll-free number where cardholders can access credit-counseling services.

The disclosure requirements in the bill would only apply if the consumer has a minimum payment that is less than 10 percent of the debt on the credit card. Otherwise, none of these disclosures would be required on their statement.

Last year, a Gallup—Experian poll found that about 11 percent of credit cardholders consistently make only the minimum payment on their cards each month.

Consider what this could mean for the average household.

For example, the U.S. average credit card debt is $10,678. The average fixed credit card interest rate is approximately 12 percent. If the 2 percent minimum payment is all that is paid on its debt each month, it would take more than 31 years to pay off the bill and the total cost would be $21,052.66—and that's just the minimum assuming that the family didn't ever charge another dime on that bill.

In other words, the family would need to pay $10,374.66 in interest just to repay $10,678 in original debt.

For individuals or families with more than average debt, the pitfalls are even greater. $20,000 of credit card debt at the average 12 percent interest rate will take over 36 years and more than $28,261 to pay off if only the minimum payments are made.

Twelve percent is relatively low, average interest rate. Interest rates around 20 percent are not uncommon on credit cards, and penalty interest rates can reach as high as 32 percent.

A family that has the average debt with a 20 percent interest rate and makes the minimum payments will need a lifetime—over 85 years—and $62,158 to pay off the initial $10,678 bill. That's $51,480 just in interest—an amount that approaches 5 times the original debt.

Credit cards are an important part of everyday life, and they help the economy operate more smoothly by giving consumers and merchants a reliable, convenient way to exchange funds. But the bottom line is that for many consumers, the two percent minimum payment is a financial trap.

The Credit Card Minimum Payment Notification Act is designed to ensure that people are not caught in this trap through lack of information.

Last month, the Federal Reserve Board approved new rules that will improve disclosures, but the rules do not go far enough. Under the rules, starting July 1, 2010, credit card companies will have to warn consumers about the effect of making minimum payments on the length of time it will take to pay off their balances. But the warnings may be only examples and will not show the effect on the amount that consumers pay over time.

Before approving the final rules, the Federal Reserve Board interviewed consumers who typically carried credit card balances. Those consumers found disclosures most helpful when they provided specific information and included warnings about the amount that would have to be paid over time.

The Credit Card Minimum Payment Notification Act would provide the straightforward disclosure that consumers find most helpful and most effective.

This disclosure will ensure that consumers know exactly what it means for them to carry a balance and make minimum payments, so they can make informed decisions on credit card use and repayment.

In addition, the burden on banks will be minimal. Calculations like these are purely formulaic. Credit card companies already complete similar calculations to determine credit risk and when they tell consumers what their required minimum payment is each month.

The harsh effects of the 2005 bankruptcy bill are becoming apparent. During the debate over that bill, I had hoped that Congress would succeed in balancing the need to incentivize consumers to act responsibly with the promise of a fresh start for those who fell impossibly behind. I do not believe that that balance was reached.

I continue to believe that consumers need a meaningful disclosure informing them of the effects of making minimum payments.

Today, as Americans face increasing struggles with debt and expenses, the bill is needed more than ever. I urge my colleagues to support this legislation.

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

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

S. 131

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Credit Card Minimum Payment Notification Act of 2009''.

**SEC. 2. ENHANCED DISCLOSURE UNDER AN OPEN END CREDIT PLAN.**

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(13) ENHANCED DISCLOSURE UNDER AN OPEN END CREDIT PLAN.—

''(A) IN GENERAL.—A credit card issuer shall, with each billing statement provided to a cardholder in a State, provide the following on the front of the first page of the billing statement, in type no smaller than that required for any other required disclosure, but in no case in less than 8-point capitalized type:

''(i) A written statement in the following form: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance.'.

''(ii)(I) A written statement providing individualized information indicating the number of years and months and the total cost to pay off the entire balance due on an open-end credit card account, if the cardholder were to pay only the minimum amount due on the open-end credit card account, based upon the terms of the credit agreement.

''(II) For purposes of this clause only, if the open-end credit card account is subject to a variable rate—

''(aa) the creditor may make disclosures based on the rate for the entire balance as of the date of the disclosure and indicate that the rate may vary; and

''(bb) the cardholder shall be provided with referrals or, in the alternative, with the toll free telephone number of the National Foundation for Credit Counseling (or any successor thereto) through which the cardholder can be referred to credit counseling services in, or closest to, the cardholder's county of residence, which credit counseling service shall be in good standing with the National Foundation for Credit Counseling or accredited by the Council on Accreditation for Children and Family Services (or any successors thereto).

''(B) DEFINITION OF OPEN-END CREDIT CARD ACCOUNT.—In this paragraph, the term 'open-end credit card account' means an account in which consumer credit is granted by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an unpaid balance, and the amount of credit that may be extended to the consumer during the term of the plan is generally made available to the extent that any outstanding balance is repaid and up to any limit set by the creditor.

''(C) EXEMPTIONS.—

''(i) MINIMUM PAYMENT OF NOT LESS THAN TEN PERCENT.—This paragraph shall not apply in any billing cycle in which the account agreement requires a minimum payment of not less than 10 percent of the outstanding balance.

''(ii) NO FINANCE CHARGES.—This paragraph shall not apply in any billing cycle in which finance charges are not imposed.''.

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By Mrs. FEINSTEIN (for herself, Mr. HATCH, Mr. BAYH, Mr. KERRY, Mrs. MURRAY, Mr. KYL, Mr. SPECTER, Mr. SCHUMER, and Ms. CANTWELL):

S. 132. A bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to join Senators HATCH, BAYH, KERRY, MURRAY, KYL, and SPECTER in introducing comprehensive anti-gang legislation—the Gang Abatement and Prevention Act of 2009.

This bill has changed significantly since Senator HATCH and I began introducing gang legislation over 10 years ago. The current version of the bill reflects changes that have been made to comprehensively address the gang problem, including provisions emphasizing prevention and intervention programs, as well as enforcement funding.

This bill recognizes that the root causes of gang violence need to be addressed—identifying successful community programs and then investing significant resources in schools and religious and community organizations to prevent young people from joining gangs in the first place.

The bill constitutes a balanced approach to fighting the gang problem, with authorization for hundreds of millions of dollars to be used for proven gang prevention and intervention programs, as well as strong enforcement provisions.

The rise of criminal street gangs and the effect these gangs are having on our Nation are two of the fundamental issues facing us today. This country is in the midst of an epidemic of gang violence that cuts across every age and every race and plagues our cities, suburbs and rural areas. This violence often involves teens and children as both victims and perpetrators.

Almost every day, gang violence is in the news across the country, with gang-related killings of children and innocent bystanders almost too numerous to count. A person only needs to pick up a newspaper or watch the evening news to see how gang violence is affecting our communities.

A snapshot of gang violence that occurred over a 4-day period in Los Angeles in March 2008 illustrates how insidious gangs have become.

On March 2, 2008, Jamiel Shaw, a 17-year-old high school football star, was shot to death just three doors from his home in Mid-City Los Angeles as he rushed home to make curfew. Two gang members pulled up in a car, asked if Jamiel was a gang member, and then shot him when he didn't answer. Jamiel was not in a gang and was a model student and athlete who was being recruited by Stanford and Rutgers to play collegiate football. His mother, a sergeant in the U.S. Army who was serving her second tour of duty in Iraq, had to return home to Los Angeles to bury her son.

On March 4, 2008, 6-year-old Lavarea Elvy was shot in the head in the Harbor Gateway area of South Los Angeles as she sat in the family car. A gang member and a gang associate of a Hispanic street gang have been charged in this attempted murder.

On March 6, 2008, 13-year-old Anthony Escobar was killed while picking lemons in a neighbor's yard in the Echo Park area of Los Angeles. Anthony was not a gang member, and police believe he was targeted by gang members who came to his neighborhood for no other reason than to kill someone.

Stories like these are not limited to California. They are becoming commonplace across the country. Consider the following incidents of gang violence from across the country:

In February 2008, Julia Steele, an 80-year-old woman from St. Louis, Missouri, was killed when she was caught in the crossfire of gunfire between rival gang members. Julia's 80-year-old friend was also injured when their car slammed into other vehicles after the shooting.

Beginning in May 2008, police in Billings, Montana had to increase neighborhood patrols due to repeated drive-by shootings conducted by gang members.

In July 2008, a 7-year-old boy was wounded while playing kickball near his suburban Roxbury, Massachusetts home. He was shot by an adult gang member from Boston, who police believe had traveled to the suburbs for no other reason than to shoot someone.

In October 2008, Christopher Walker, a 16-year-old high school junior and member of the varsity basketball team, was shot and killed by a gang member near Henry Ford High School, his high school in Detroit, Michigan. According to media reports, Chris' death has sparked much anger in the community over growing gang violence in the area.

Across the country, in rural areas, suburbs, and cities, gang violence is literally holding neighborhoods hostage and Congress needs to do something about it. Our national gang problem is immense and growing, and it is not going away.

On January 18, 2007, FBI Director Mueller acknowledged that gang crime has become ''part of a clear national trend.'' FBI statistics show that there are over 30,000 criminal street gangs operating in the United States, with more than one million gang members.

According to the FBI, gangs have an impact on at least 2,500 communities across the Nation. These criminal street gangs engage in drug trafficking, robbery, extortion, gun trafficking, and murder. They recruit children and teens, destroy neighborhoods, cripple families, and kill innocent people.

In California, the State Attorney General has estimated that there are 171,000 juveniles and adults committed to criminal street gangs and their way of life. That's greater than the population of 28 California counties.

From 1992 to 2003, there were more than 7,500 gang-related homicides reported in California. In 2007, 469 of the 2,258 homicides in California were gang-related.

Los Angeles Police Department Chief Bill Bratton put it bluntly: ''There is nothing more insidious than these gangs. They are worse than the Mafia. Show me a year in New York where the Mafia indiscriminately killed 300 people. You can't.''

It's not just a California problem or an issue limited to big cities. In Chicago, the FBI estimates that there are over 60,000 gang members. A 2008 DOJ Report notes the rapid spread of gangs and violence to suburban areas. FBI Director Mueller recently recognized the national scope of the gang problem when he said: ''Gangs are no longer limited to Los Angeles. Like a cancer, gangs are spreading to communities across America.''

Our cities and States need our help—a long-term commitment to combat gang violence and a Federal helping hand to get our youth out of gangs and keep them from joining gangs in the first place.

Senator HATCH and I have now been introducing comprehensive Federal gang legislation for over a decade. Our gang bills have been modified and refined over the years, most recently in the bill that passed in the Senate in the 110th Congress by unanimous consent.

The bill that we introduce today is a balanced and measured approach to dealing with the gang problem. It has no death penalty provisions, no mandatory minimums, and we have eliminated juvenile justice changes that previously proved to be an impediment to the larger bill's passage.

The bill that we offer today provides a Federal helping hand to fight the gang problem. It provides a comprehensive solution to gang violence, combining enforcement, prevention, and intervention efforts in a collaborative approach that has proven effective in models like Operation Ceasefire.

The bill recognizes that the Federal Government can do more to fight gangs and that more tools must be made available to Federal law enforcement agents and prosecutors to stop the epidemic of gang violence. To this end, the bill establishes new, common sense Federal gang crimes and tougher Federal penalties.

Existing Federal street gang laws are frankly weak, and are almost never used. Currently, a person committing a gang crime might have extra time tacked on to the end of their Federal sentence. That is because Federal law currently focuses on gang violence only as a sentencing enhancement, rather than as a crime unto itself.

The bill that I offer today would make it a separate Federal crime for any criminal street gang member to commit, conspire or attempt to commit violent crimes—including murder, kidnapping, arson, extortion—in furtherance of the gang.

The penalties for gang members committing such crimes would increase considerably.

For gang-related murder, kidnapping, aggravated sexual abuse or maiming, the penalties would range up to life imprisonment.

For any other serious violent felony, the penalty would range up to 30 years.

For other crimes of violence—defined as the actual or intended use of physical force against the person of another—the penalty could bring up to 20 years in prison.

The bill also creates a new crime for recruiting juveniles and adults into a criminal street gang, with a penalty of up to 10 years, or if the recruiting involved a juvenile or recruiting from prison, up to 20 years.

It also creates new Federal crimes for committing violent crimes in connection with drug trafficking, and increases existing penalties for violent crimes in aid of racketeering.

Finally, the bill also makes a host of other violent crime reforms, including closing a loophole that allows carjackers to avoid convictions, increasing the penalties for those who use guns in violent crimes or transfer guns knowing they will be used in crimes, and limiting bail for violent felons who possess firearms.

But the bill also recognizes that we cannot simply arrest our way out of the gang problem. It also focuses on prevention and intervention strategies to prevent our youth from joining street gangs and to give existing gang members a way out of that lifestyle.

Specifically, the bill would authorize over $1 billion in new funds over the next 5 years to address the gang problem, including: $411.5 million to fund gang prevention and intervention programs, like Operation Ceasefire, a proven gang prevention and intervention program successfully used in communities across the country; $187.5 million to establish High Intensity Interstate Gang Activity Areas—Federal, State, and local law enforcement task forces to combat gangs and implement prevention programs; $100 million to fund the DOJ's Project Safe Neighborhood Program, the Federal Government's primary anti-gang initiative; $50 million for the Project Safe Streets Program, the FBI's primary gang investigation tool; $100 million for more prosecutors, technology, and equipment for gang investigations; $270 million for State witness protection programs in gang cases.

This balanced approach—of prevention and intervention plus common sense enforcement—will send a clear message to gang members: a new day has arrived and the Federal Government will no longer sit on the sidelines while gang violence engulfs the country.

This bill will provide gang members with new opportunities, with schools and social services agencies empowered to make alternatives to gangs a realistic option. But if gang members continue to engage in violence, they will face new and serious Federal consequences.

For more than 10 years now, Senator HATCH and I have been trying to pass Federal anti-gang legislation. There have been times when we have gotten close, including last session when the Senate passed this same bill. Unfortunately, while Congress as a whole has failed to act, violent street gangs have only expanded nationwide and become more empowered and entrenched in other States and communities.

I believe this bill can again pass in the Senate and be enacted into law. The time has arrived for us to finally address this problem, and I believe this bill is well-suited to help solve it.

I urge my colleagues to favorably consider this legislation in the 111th Congress.

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

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

S. 132

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Gang Abatement and Prevention Act of 2009''.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

**SEC. 3. FINDINGS.**

Congress finds that—

(1) violent crime and drug trafficking are pervasive problems at the national, State, and local level;

(2) according to recent Federal Bureau of Investigation, Uniform Crime Reports, violent crime in the United States is on the rise, with a 2.3 percent increase in violent crime in 2005 (the largest increase in the United States in 15 years) and an even larger 3.7 percent jump during the first 6 months of 2006, and the Police Executive Research Forum reports that, among jurisdictions providing information, homicides are up 10.21 percent, robberies are up 12.27 percent, and aggravated assaults with firearms are up 9.98 percent since 2004;

(3) these disturbing rises in violent crime are attributable in part to the spread of criminal street gangs and the willingness of gang members to commit acts of violence and drug trafficking offenses;

(4) according to a recent National Drug Threat Assessment, criminal street gangs are responsible for much of the retail distribution of the cocaine, methamphetamine, heroin, and other illegal drugs being distributed in rural and urban communities throughout the United States;

(5) gangs commit acts of violence or drug offenses for numerous motives, such as membership in or loyalty to the gang, for protecting gang territory, and for profit;

(6) gang presence and intimidation, and the organized and repetitive nature of the crimes that gangs and gang members commit, has a pernicious effect on the free flow of interstate commercial activities and directly affects the freedom and security of communities plagued by gang activity, diminishing the value of property, inhibiting the desire of national and multinational corporations to transact business in those communities, and in a variety of ways directly and substantially affecting interstate and foreign commerce;

(7) gangs often recruit and utilize minors to engage in acts of violence and other serious offenses out of a belief that the criminal justice systems are more lenient on juvenile offenders;

(8) gangs often intimidate and threaten witnesses to prevent successful prosecutions;

(9) gangs prey upon and incorporate minors into their ranks, exploiting the fact that adolescents have immature decision-making capacity, therefore, gang activity and recruitment can be reduced and deterred through increased vigilance, appropriate criminal penalties, partnerships between Federal and State and local law enforcement, and proactive prevention and intervention efforts, particularly targeted at juveniles and young adults, prior to and even during gang involvement;

(10) State and local prosecutors and law enforcement officers, in hearings before the Committee on the Judiciary of the Senate and elsewhere, have enlisted the help of Congress in the prevention, investigation, and prosecution of gang crimes and in the protection of witnesses and victims of gang crimes; and

(11) because State and local prosecutors and law enforcement have the expertise, experience, and connection to the community that is needed to assist in combating gang violence, consultation and coordination between Federal, State, and local law enforcement and collaboration with other community agencies is critical to the successful prosecutions of criminal street gangs and reduction of gang problems.

**TITLE I—NEW FEDERAL CRIMINAL LAWS NEEDED TO FIGHT VIOLENT NATIONAL, INTERNATIONAL, REGIONAL, AND LOCAL GANGS THAT AFFECT INTERSTATE AND FOREIGN COMMERCE**

**SEC. 101. REVISION AND EXTENSION OF PENALTIES RELATED TO CRIMINAL STREET GANG ACTIVITY.**

(a) IN GENERAL.—Chapter 26 of title 18, United States Code, is amended to read as follows:

**"CHAPTER 26—CRIMINAL STREET GANGS**



**"SEC. 521. DEFINITIONS.**

''In this chapter:

''(1) CRIMINAL STREET GANG.—The term 'criminal street gang' means a formal or informal group, organization, or association of 5 or more individuals—

''(A) each of whom has committed at least 1 gang crime; and

''(B) who collectively commit 3 or more gang crimes (not less than 1 of which is a serious violent felony), in separate criminal episodes (not less than 1 of which occurs after the date of enactment of the Gang Abatement and Prevention Act of 2009, and the last of which occurs not later than 5 years after the commission of a prior gang crime (excluding any time of imprisonment for that individual)).

''(2) GANG CRIME.—The term 'gang crime' means an offense under Federal law punishable by imprisonment for more than 1 year, or a felony offense under State law that is punishable by a term of imprisonment of 5 years or more in any of the following categories:

''(A) A crime that has as an element the use, attempted use, or threatened use of physical force against the person of another, or is burglary, arson, kidnapping, or extortion.

''(B) A crime involving obstruction of justice, or tampering with or retaliating against a witness, victim, or informant.

''(C) A crime involving the manufacturing, importing, distributing, possessing with intent to distribute, or otherwise trafficking in a controlled substance or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

''(D) Any conduct punishable under—

''(i) section 844 (relating to explosive materials);

''(ii) subsection (a)(1), (d), (g)(1) (where the underlying conviction is a violent felony or a serious drug offense (as those terms are defined in section 924(e)), (g)(2), (g)(3), (g)(4), (g)(5), (g)(8), (g)(9), (g)(10), (g)(11), (i), (j), (k), (n), (o), (p), (q), (u), or (x) of section 922 (relating to unlawful acts);

''(iii) subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 (relating to penalties);

''(iv) section 930 (relating to possession of firearms and dangerous weapons in Federal facilities);

''(v) section 931 (relating to purchase, ownership, or possession of body armor by violent felons);

''(vi) sections 1028 and 1029 (relating to fraud, identity theft, and related activity in connection with identification documents or access devices);

''(vii) section 1084 (relating to transmission of wagering information);

''(viii) section 1952 (relating to interstate and foreign travel or transportation in aid of racketeering enterprises);

''(ix) section 1956 (relating to the laundering of monetary instruments);

''(x) section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity); or

''(xi) sections 2312 through 2315 (relating to interstate transportation of stolen motor vehicles or stolen property).

''(E) Any conduct punishable under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of aliens for immoral purposes) of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, and 1328).

''(F) Any crime involving aggravated sexual abuse, sexual assault, pimping or pandering involving prostitution, sexual exploitation of children (including sections 2251, 2251A, 2252 and 2260), peonage, slavery, or trafficking in persons (including sections 1581 through 1592) and sections 2421 through 2427 (relating to transport for illegal sexual activity).

''(3) MINOR.—The term 'minor' means an individual who is less than 18 years of age.

''(4) SERIOUS VIOLENT FELONY.—The term 'serious violent felony' has the meaning given that term in section 3559.

''(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

**''SEC. 522. CRIMINAL STREET GANG PROSECUTIONS.**

''(a) STREET GANG CRIME.—It shall be unlawful for any person to knowingly commit, or conspire, threaten, or attempt to commit, a gang crime for the purpose of furthering the activities of a criminal street gang, or gaining entrance to or maintaining or increasing position in a criminal street gang, if the activities of that criminal street gang occur in or affect interstate or foreign commerce.

''(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title and—

''(1) for murder, kidnapping, conduct that would violate section 2241 if the conduct occurred in the special maritime and territorial jurisdiction of the United States, or maiming, imprisonment for any term of years or for life;

''(2) for any other serious violent felony, by imprisonment for not more than 30 years;

''(3) for any crime of violence that is not a serious violent felony, by imprisonment for not more than 20 years; and

''(4) for any other offense, by imprisonment for not more than 10 years.

**''SEC. 523. RECRUITMENT OF PERSONS TO PARTICIPATE IN A CRIMINAL STREET GANG.**

''(a) PROHIBITED ACTS.—It shall be unlawful to knowingly recruit, employ, solicit, induce, command, coerce, or cause another person to be or remain as a member of a criminal street gang, or attempt or conspire to do so, with the intent to cause that person to participate in a gang crime, if the defendant travels in interstate or foreign commerce in the course of the offense, or if the activities of that criminal street gang are in or affect interstate or foreign commerce.

''(b) PENALTIES.—Whoever violates subsection (a) shall—

''(1) if the person recruited, employed, solicited, induced, commanded, coerced, or caused to participate or remain in a criminal street gang is a minor—

''(A) be fined under this title, imprisoned not more than 10 years, or both; and

''(B) at the discretion of the sentencing judge, be liable for any costs incurred by the Federal Government, or by any State or local government, for housing, maintaining, and treating the minor until the person attains the age of 18 years;

''(2) if the person who recruits, employs, solicits, induces, commands, coerces, or causes the participation or remaining in a criminal street gang is incarcerated at the time the offense takes place, be fined under this title, imprisoned not more than 10 years, or both; and

''(3) in any other case, be fined under this title, imprisoned not more than 5 years, or both.

''(c) CONSECUTIVE NATURE OF PENALTIES.—Any term of imprisonment imposed under subsection (b)(2) shall be consecutive to any term imposed for any other offense.

**''SEC. 524. VIOLENT CRIMES IN FURTHERANCE OF CRIMINAL STREET GANGS.**

''(a) IN GENERAL.—It shall be unlawful for any person, for the purpose of gaining entrance to or maintaining or increasing position in, or in furtherance of, or in association with, a criminal street gang, or as consideration for anything of pecuniary value to or from a criminal street gang, to knowingly commit or threaten to commit against any individual a crime of violence that is an offense under Federal law punishable by imprisonment for more than 1 year or a felony offense under State law that is punishable by a term of imprisonment of 5 years or more, or attempt or conspire to do so, if the activities of the criminal street gang occur in or affect interstate or foreign commerce.

''(b) PENALTY.—Any person who violates subsection (a) shall be punished by a fine under this title and—

''(1) for murder, kidnapping, conduct that would violate section 2241 if the conduct occurred in the special maritime and territorial jurisdiction of the United States, or maiming, by imprisonment for any term of years or for life;

''(2) for a serious violent felony other than one described in paragraph (1), by imprisonment for not more than 30 years; and

''(3) in any other case, by imprisonment for not more than 20 years.

**''SEC. 525. FORFEITURE.**

''(a) CRIMINAL FORFEITURE.—A person who is convicted of a violation of this chapter shall forfeit to the United States—

''(1) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation; and

''(2) any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the violation.

''(b) PROCEDURES APPLICABLE.—Pursuant to section 2461(c) of title 28, the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853), except subsections (a) and (d) of that section, shall apply to the criminal forfeiture of property under this section.''.

(b) AMENDMENT RELATING TO PRIORITY OF FORFEITURE OVER ORDERS FOR RESTITUTION.—Section 3663(c)(4) of title 18, United States Code, is amended by striking ''chapter 46 or'' and inserting ''chapter 26, chapter 46, or''.

(c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting '', section 522 (relating to criminal street gang prosecutions), 523 (relating to recruitment of persons to participate in a criminal street gang), and 524 (relating to violent crimes in furtherance of criminal street gangs)'' before '', section 541''.

(d) AMENDMENT OF SPECIAL SENTENCING PROVISION PROHIBITING PRISONER COMMUNICATIONS.—Section 3582(d) of title 18, United States Code, is amended—

(1) by inserting ''chapter 26 (criminal street gangs),'' before ''chapter 95''; and

(2) by inserting ''a criminal street gang or'' before ''an illegal enterprise''.

## TITLE II—VIOLENT CRIME REFORMS TO REDUCE GANG VIOLENCE

**SEC. 201. VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.**

Section 1959(a) of title 18, United States Code, is amended—

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

(A) by inserting ''or in furtherance or in aid of an enterprise engaged in racketeering activity,'' before ''murders,''; and

(B) by inserting ''engages in conduct that would violate section 2241 if the conduct occurred in the special maritime and territorial jurisdiction of the United States,'' before ''maims,'';

(2) in paragraph (1), by inserting ''conduct that would violate section 2241 if the conduct occurred in the special maritime and territorial jurisdiction of the United States, or maiming,'' after ''kidnapping,'';

(3) in paragraph (2), by striking ''maiming'' and inserting ''assault resulting in serious bodily injury'';

(4) in paragraph (3), by striking ''or assault resulting in serious bodily injury'';

(5) in paragraph (4)—

(A) by striking ''five years'' and inserting ''10 years''; and

(B) by adding ''and'' at the end; and

(6) by striking paragraphs (5) and (6) and inserting the following:

''(5) for attempting or conspiring to commit any offense under this section, by the same penalties (other than the death penalty) as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.''.

**SEC. 202. MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME.**

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

**''SEC. 424. MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME.**

''(a) IN GENERAL.—Whoever, during and in relation to any drug trafficking crime, knowingly commits any crime of violence against any individual that is an offense under Federal law punishable by imprisonment for more than 1 year or a felony offense under State law that is punishable by a term of imprisonment of 5 years or more, or threatens, attempts or conspires to do so, shall be punished by a fine under title 18, United States Code, and—

''(1) for murder, kidnapping, conduct that would violate section 2241 if the conduct occurred in the special maritime and territorial jurisdiction of the United States, or maiming, by imprisonment for any term of years or for life;

''(2) for a serious violent felony (as defined in section 3559 of title 18, United States Code) other than one described in paragraph (1) by imprisonment for not more than 30 years;

''(3) for a crime of violence that is not a serious violent felony, by imprisonment for not more than 20 years; and

''(4) in any other case by imprisonment for not more than 10 years.

''(b) VENUE.—A prosecution for a violation of this section may be brought in—

''(1) the judicial district in which the murder or other crime of violence occurred; or

''(2) any judicial district in which the drug trafficking crime may be prosecuted.

''(c) DEFINITIONS.—In this section—

''(1) the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code; and

''(2) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18, United States Code.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513; 84 Stat. 1236) is amended by inserting after the item relating to section 423, the following:

''Sec. 424. Murder and other violent crimes committed during and in relation to a drug trafficking crime.''.

**SEC. 203. EXPANSION OF REBUTTABLE PRESUMPTION AGAINST RELEASE OF PERSONS CHARGED WITH FIREARMS OFFENSES.**

Section 3142(e) of title 18, United States Code, is amended in the matter following

paragraph (3), by inserting after ''that the person committed'' the following: ''an offense under subsection (g)(1) (where the underlying conviction is a drug trafficking crime or crime of violence (as those terms are defined in section 924(c))), (g)(2), (g)(3), (g)(4), (g)(5), (g)(8), (g)(9), (g)(10), or (g)(11) of section 922,''.

**SEC. 204. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

**''§ 3299A. Violent crime offenses**

''No person shall be prosecuted, tried, or punished for any noncapital felony crime of violence, including any racketeering activity or gang crime which involves any crime of violence, unless the indictment is found or the information is instituted not later than 10 years after the date on which the alleged violation occurred or the continuing offense was completed.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3299A. Violent crime offenses.''.

**SEC. 205. STUDY OF HEARSAY EXCEPTION FOR FORFEITURE BY WRONGDOING.**

The Judicial Conference of the United States shall study the necessity and desirability of amending section 804(b) of the Federal Rules of Evidence to permit the introduction of statements against a party by a witness who has been made unavailable where it is reasonably foreseeable by that party that wrongdoing would make the declarant unavailable.

**SEC. 206. POSSESSION OF FIREARMS BY DANGEROUS FELONS.**

(a) IN GENERAL.—Section 924(e) of title 18, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) In the case of a person who violates section 922(g) of this title and has previously been convicted by any court referred to in section 922(g)(1) of a violent felony or a serious drug offense shall—

''(A) in the case of 1 such prior conviction, where a period of not more than 10 years has elapsed since the later of the date of conviction and the date of release of the person from imprisonment for that conviction, be imprisoned for not more than 15 years, fined under this title, or both;

''(B) in the case of 2 such prior convictions, committed on occasions different from one another, and where a period of not more than 10 years has elapsed since the later of the date of conviction and the date of release of the person from imprisonment for the most recent such conviction, be imprisoned for not more than 20 years, fined under this title, or both; and

''(C) in the case of 3 such prior convictions, committed on occasions different from one another, and where a period of not more than 10 years has elapsed since the later of date of conviction and the date of release of the person from imprisonment for the most recent such conviction, be imprisoned for any term of years not less than 15 years or for life and fined under this title, and notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).''.

(b) AMENDMENT TO SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide for an appropriate increase in the offense level for violations of section 922(g) of title 18, United States Code, in accordance with section 924(e) of that title 18, as amended by subsection (a).

**SEC. 207. CONFORMING AMENDMENT.**

The matter preceding paragraph (1) in section 922(d) of title 18, United States Code, is amended by inserting '', transfer,'' after ''sell''.

**SEC. 208. AMENDMENTS RELATING TO VIOLENT CRIME.**

(a) CARJACKING.—Section 2119 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking '', with the intent'' and all that follows through ''to do so, shall'' and inserting ''knowingly takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from the person of another by force and violence or by intimidation, causing a reasonable apprehension of fear of death or serious bodily injury in an individual, or attempts or conspires to do so, shall'';

(2) in paragraph (1), by striking ''15 years'' and inserting ''20 years'';

(3) in paragraph (2), by striking ''or imprisoned not more than 25 years, or both'' and inserting ''and imprisoned for any term of years or for life''; and

(4) in paragraph (3), by inserting ''the person takes or attempts to take the motor vehicle in violation of this section with intent to cause death or cause serious bodily injury, and'' before ''death results''.

(b) CLARIFICATION AND STRENGTHENING OF PROHIBITION ON ILLEGAL GUN TRANSFERS TO COMMIT DRUG TRAFFICKING CRIME OR CRIME OF VIOLENCE.—Section 924(h) of title 18, United States Code, is amended to read as follows:

''(h) Whoever knowingly transfers a firearm that has moved in or that otherwise affects interstate or foreign commerce, knowing that the firearm will be used to commit, or possessed in furtherance of, a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be fined under this title and imprisoned not more than 20 years.''.

(c) AMENDMENT OF SPECIAL SENTENCING PROVISION RELATING TO LIMITATIONS ON CRIMINAL ASSOCIATION.—Section 3582(d) of title 18, United States Code, is amended—

(1) by inserting ''chapter 26 of this title (criminal street gang prosecutions) or in'' after ''felony set forth in''; and

(2) by inserting ''a criminal street gang or'' before ''an illegal enterprise''.

(d) CONSPIRACY PENALTY.—Section 371 of title 18, United States Code, is amended by striking ''five years, or both.'' and inserting ''10 years (unless the maximum penalty for the crime that served as the object of the conspiracy has a maximum penalty of imprisonment of less than 10 years, in which case the maximum penalty under this section shall be the penalty for such crime), or both. This paragraph does not supersede any other penalty specifically set forth for a conspiracy offense.''.

**SEC. 209. PUBLICITY CAMPAIGN ABOUT NEW CRIMINAL PENALTIES.**

The Attorney General is authorized to conduct media campaigns in any area designated as a high intensity gang activity area under section 301 and any area with existing and emerging problems with gangs, as needed, to educate individuals in that area about the changes in criminal penalties made by this Act, and shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives the amount of expenditures and all other aspects of the media campaign.

**SEC. 210. STATUTE OF LIMITATIONS FOR TERRORISM OFFENSES.**

Section 3286(a) of title 18, United States Code, is amended—

(1) in the subsection heading, by striking ''EIGHT-YEAR'' and inserting ''TEN-YEAR''; and

(2) in the first sentence, by striking ''8 years'' and inserting ''10 years''.

**SEC. 211. CRIMES COMMITTED IN INDIAN COUNTRY OR EXCLUSIVE FEDERAL JURISDICTION AS RACKETEERING PREDICATES.**

Section 1961(1)(A) of title 18, United States Code, is amended by inserting '', or would have been so chargeable if the act or threat (other than gambling) had not been committed in Indian country (as defined in section 1151) or in any other area of exclusive Federal jurisdiction,'' after ''chargeable under State law''.

**SEC. 212. PREDICATE CRIMES FOR AUTHORIZATION OF INTERCEPTION OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.**

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking ''or'' and the end of paragraph (r);

(2) by redesignating paragraph (s) as paragraph (u); and

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

''(s) any violation of section 424 of the Controlled Substances Act (relating to murder and other violent crimes in furtherance of a drug trafficking crime);

''(t) any violation of section 522, 523, or 524 (relating to criminal street gangs); or''.

**SEC. 213. CLARIFICATION OF HOBBS ACT.**

Section 1951(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting ''including the unlawful impersonation of a law enforcement officer (as that term is defined in section 245(c) of this title),'' after ''by means of actual or threatened force,''; and

(2) in paragraph (2), by inserting ''including the unlawful impersonation of a law enforcement officer (as that term is defined in section 245(c) of this title),'' after ''by wrongful use of actual or threatened force,''.

**SEC. 214. INTERSTATE TAMPERING WITH OR RETALIATION AGAINST A WITNESS, VICTIM, OR INFORMANT IN A STATE CRIMINAL PROCEEDING.**

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1513 the following:

**''§ 1513A. Interstate tampering with or retaliation against a witness, victim, or informant in a state criminal proceeding**

''(a) IN GENERAL.—It shall be unlawful for any person—

''(1) to travel in interstate or foreign commerce, or to use the mail or any facility in interstate or foreign commerce, or to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to do the same, with the intent to—

''(A) use or threaten to use any physical force against any witness, informant, victim, or other participant in a State criminal proceeding in an effort to influence or prevent participation in such proceeding, or to retaliate against such individual for participating in such proceeding; or

''(B) threaten, influence, or prevent from testifying any actual or prospective witness in a State criminal proceeding; or

''(2) to attempt or conspire to commit an offense under subparagraph (A) or (B) of paragraph (1).

''(b) PENALTIES.—

''(1) USE OF FORCE.—Any person who violates subsection (a)(1)(A) by use of force—

''(A) shall be fined under this title, imprisoned not more than 20 years, or both; and

''(B) if death, kidnapping, or serious bodily injury results, shall be fined under this title, imprisoned for any term of years or for life, or both.

''(2) OTHER VIOLATIONS.—Any person who violates subsection (a)(1)(A) by threatened use of force or violates paragraph (1)(B) or (2) of subsection (a) shall be fined under this title, imprisoned not more than 10 years, or both.

''(c) VENUE.—A prosecution under this section may be brought in the district in which the official proceeding (whether or not pending, about to be instituted or was completed) was intended to be affected or was completed, or in which the conduct constituting the alleged offense occurred.''.

(b) CONFORMING AMENDMENT.—Section 1512 is amended, in the section heading, by adding at the end the following: ''**in a Federal proceeding**''.

(c) CHAPTER ANALYSIS.—The table of sections for chapter 73 of title 18, United States Code, is amended—

(1) by striking the item relating to section 1512 and inserting the following:

''1512. Tampering with a witness, victim, or an informant in a Federal proceeding.'';

and

(2) by inserting after the item relating to section 1513 the following:

''1513A. Interstate tampering with or retaliation against a witness, victim, or informant in a State criminal proceeding.''.

**SEC. 215. AMENDMENT OF SENTENCING GUIDELINES.**

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and policy statements to conform with this title and the amendments made by this title.

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

(1) establish new guidelines and policy statements, as warranted, in order to implement new or revised criminal offenses under this title and the amendments made by this title;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guidelines offense levels and enhancements—

(i) are sufficient to deter and punish such offenses; and

(ii) are adequate in view of the statutory increases in penalties contained in this title and the amendments made by this title; and

(B) whether any existing or new specific offense characteristics should be added to reflect congressional intent to increase penalties for the offenses set forth in this title and the amendments made by this title;

(3) ensure that specific offense characteristics are added to increase the guideline range—

(A) by at least 2 offense levels, if a criminal defendant committing a gang crime or gang recruiting offense was an alien who was present in the United States in violation of section 275 or 276 of the Immigration and Nationality Act (8 U.S.C. 1325 and 1326) at the time the offense was committed; and

(B) by at least 4 offense levels, if such defendant had also previously been ordered removed or deported under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime;

(4) determine under what circumstances a sentence of imprisonment imposed under this title or the amendments made by this title shall run consecutively to any other sentence of imprisonment imposed for any other crime, except that the Commission shall ensure that a sentence of imprisonment imposed under section 424 of the Controlled Substances Act (21 U.S.C. 841 et seq.), as added by this Act, shall run consecutively, to an extent that the Sentencing Commission determines appropriate, to the sentence imposed for the underlying drug trafficking offense;

(5) account for any aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

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

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

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

## TITLE III—INCREASED FEDERAL RESOURCES TO DETER AND PREVENT SERIOUSLY AT-RISK YOUTH FROM JOINING ILLEGAL STREET GANGS AND FOR OTHER PURPOSES

**SEC. 301. DESIGNATION OF AND ASSISTANCE FOR HIGH INTENSITY GANG ACTIVITY AREAS.**

(a) DEFINITIONS.—In this section:

(1) GOVERNOR.—The term ''Governor'' means a Governor of a State, the Mayor of the District of Columbia, the tribal leader of an Indian tribe, or the chief executive of a Commonwealth, territory, or possession of the United States.

(2) HIGH INTENSITY GANG ACTIVITY AREA.—The term ''high intensity gang activity area'' or ''HIGAA'' means an area within 1 or more States or Indian country that is designated as a high intensity gang activity area under subsection (b)(1).

(3) INDIAN COUNTRY.—The term ''Indian country'' has the meaning given the term in section 1151 of title 18, United States Code.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(5) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(6) TRIBAL LEADER.—The term ''tribal leader'' means the chief executive officer representing the governing body of an Indian tribe.

(b) HIGH INTENSITY GANG ACTIVITY AREAS.—

(1) DESIGNATION.—The Attorney General, after consultation with the Governors of appropriate States, may designate as high intensity gang activity areas, specific areas that are located within 1 or more States, which may consist of 1 or more municipalities, counties, or other jurisdictions as appropriate.

(2) ASSISTANCE.—In order to provide Federal assistance to high intensity gang activity areas, the Attorney General shall—

(A) establish local collaborative working groups, which shall include—

(i) criminal street gang enforcement teams, consisting of Federal, State, tribal, and local law enforcement authorities, for the coordinated investigation, disruption, apprehension, and prosecution of criminal street gangs and offenders in each high intensity gang activity area;

(ii) educational, community, and faith leaders in the area;

(iii) service providers in the community, including those experienced at reaching youth and adults who have been involved in violence and violent gangs or groups, to provide gang-involved or seriously at-risk youth with positive alternatives to gangs and other violent groups and to address the needs of those who leave gangs and other violent groups, and those reentering society from prison; and

(iv) evaluation teams to research and collect information, assess data, recommend adjustments, and generally assure the accountability and effectiveness of program implementation;

(B) direct the reassignment or detailing from any Federal department or agency (subject to the approval of the head of that department or agency, in the case of a department or agency other than the Department of Justice) of personnel to each criminal street gang enforcement team;

(C) direct the reassignment or detailing of representatives from—

(i) the Department of Justice;

(ii) the Department of Education;

(iii) the Department of Labor;

(iv) the Department of Health and Human Services;

(v) the Department of Housing and Urban Development; and

(vi) any other Federal department or agency (subject to the approval of the head of that department or agency, in the case of a department or agency other than the Department of Justice) to each high intensity gang activity area to identify and coordinate efforts to access Federal programs and resources available to provide gang prevention, intervention, and reentry assistance;

(D) prioritize and administer the Federal program and resource requests made by the local collaborative working group established under subparagraph (A) for each high intensity gang activity area;

(E) provide all necessary funding for the operation of each local collaborative working group in each high intensity gang activity area; and

(F) provide all necessary funding for national and regional meetings of local collaborative working groups, criminal street gang enforcement teams, and educational, community, social service, faith-based, and all other related organizations, as needed, to ensure effective operation of such teams through the sharing of intelligence and best practices and for any other related purpose.

(3) COMPOSITION OF CRIMINAL STREET GANG ENFORCEMENT TEAM.—Each team established under paragraph (2)(A)(i) shall consist of agents and officers, where feasible, from—

(A) the Federal Bureau of Investigation;

(B) the Drug Enforcement Administration;

(C) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(D) the United States Marshals Service;

(E) the Department of Homeland Security;

(F) the Department of Housing and Urban Development;

(G) State, local, and, where appropriate, tribal law enforcement;

(H) Federal, State, and local prosecutors; and

(I) the Bureau of Indian Affairs, Office of Law Enforcement Services, where appropriate.

(4) CRITERIA FOR DESIGNATION.—In considering an area for designation as a high intensity gang activity area under this section, the Attorney General shall consider—

(A) the current and predicted levels of gang crime activity in the area;

(B) the extent to which qualitative and quantitative data indicate that violent crime in the area is related to criminal street gang activity, such as murder, robbery, assaults, carjacking, arson, kidnapping, extortion, drug trafficking, and other criminal activity;

(C) the extent to which State, local, and, where appropriate, tribal law enforcement agencies, schools, community groups, social

service agencies, job agencies, faith-based organizations, and other organizations have committed resources to—

(i) respond to the gang crime problem; and

(ii) participate in a gang enforcement team;

(D) the extent to which a significant increase in the allocation of Federal resources would enhance local response to the gang crime activities in the area; and

(E) any other criteria that the Attorney General considers to be appropriate.

(5) RELATION TO HIDTAS.—If the Attorney General establishes a high intensity gang activity area that substantially overlaps geographically with any existing high intensity drug trafficking area (in this section referred to as a ''HIDTA''), the Attorney General shall direct the local collaborative working group for that high intensity gang activity area to enter into an agreement with the Executive Board for that HIDTA, providing that—

(A) the Executive Board of that HIDTA shall establish a separate high intensity gang activity area law enforcement steering committee, and select (with a preference for Federal, State, and local law enforcement agencies that are within the geographic area of that high intensity gang activity area) the members of that committee, subject to the concurrence of the Attorney General;

(B) the high intensity gang activity area law enforcement steering committee established under subparagraph (A) shall administer the funds provided under subsection (g)(1) for the criminal street gang enforcement team, after consulting with, and consistent with the goals and strategies established by, that local collaborative working group;

(C) the high intensity gang activity area law enforcement steering committee established under subparagraph (A) shall select, from Federal, State, and local law enforcement agencies within the geographic area of that high intensity gang activity area, the members of the Criminal Street Gang Enforcement Team, in accordance with paragraph (3); and

(D) the Criminal Street Gang Enforcement Team of that high intensity gang activity area, and its law enforcement steering committee, may, with approval of the Executive Board of the HIDTA with which it substantially overlaps, utilize the intelligence-sharing, administrative, and other resources of that HIDTA.

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than December 1 of each year, the Attorney General shall submit a report to the appropriate committees of Congress and the Director of the Office of Management and Budget and the Domestic Policy Council that describes, for each designated high intensity gang activity area—

(A) the specific long-term and short-term goals and objectives;

(B) the measurements used to evaluate the performance of the high intensity gang activity area in achieving the long-term and short-term goals;

(C) the age, composition, and membership of gangs;

(D) the number and nature of crimes committed by gangs and gang members;

(E) the definition of the term ''gang'' used to compile that report; and

(F) the programmatic outcomes and funding need of the high intensity gang area, including—

(i) an evidence-based analysis of the best practices and outcomes from the work of the relevant local collaborative working group; and

(ii) an analysis of whether Federal resources distributed meet the needs of the high intensity gang activity area and, if any programmatic funding shortfalls exist, recommendations for programs or funding to meet such shortfalls.

(2) APPROPRIATE COMMITTEES.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary, the Committee on Appropriations, and the Committee on Health, Education, Labor, and Pensions of the Senate; and

(B) the Committee on the Judiciary, the Committee on Appropriations, the Committee on Education and Labor, and the Committee on Energy and Commerce of the House of Representatives.

(d) ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS.—The Attorney General is authorized to hire 94 additional Assistant United States attorneys, and nonattorney coordinators and paralegals as necessary, to carry out the provisions of this section.

(e) ADDITIONAL DEFENSE COUNSEL.—In each of the fiscal years 2009 through 2013, the Director of the Administrative Office of the United States Courts is authorized to hire 71 additional attorneys, nonattorney coordinators, and investigators, as necessary, in Federal Defender Programs and Federal Community Defender Organizations, and to make additional payments as necessary to retain appointed counsel under section 3006A of title 18, United States Code, to adequately respond to any increased or expanded caseloads that may occur as a result of this Act or the amendments made by this Act. Funding under this subsection shall not exceed the funding levels under subsection (d).

(f) NATIONAL GANG RESEARCH, EVALUATION, AND POLICY INSTITUTE.—

(1) IN GENERAL.—The Office of Justice Programs of the Department of Justice, after consulting with relevant law enforcement officials, practitioners and researchers, shall establish a National Gang Research, Evaluation, and Policy Institute (in this subsection referred to as the ''Institute'').

(2) ACTIVITIES.—The Institute shall—

(A) promote and facilitate the implementation of data-driven, effective gang violence suppression, prevention, intervention, and reentry models, such as the Operation Ceasefire model, the Strategic Public Health Approach, the Gang Reduction Program, or any other promising municipally driven, comprehensive community-wide strategy that is demonstrated to be effective in reducing gang violence;

(B) assist jurisdictions by conducting timely research on effective models and designing and promoting implementation of effective local strategies, including programs that have objectives and data on how they reduce gang violence (including shootings and killings), using prevention, outreach, and community approaches, and that demonstrate the efficacy of these approaches; and

(C) provide and contract for technical assistance as needed in support of its mission.

(3) NATIONAL CONFERENCE.—Not later than 90 days after the date of its formation, the Institute shall design and conduct a national conference to reduce and prevent gang violence, and to teach and promote gang violence prevention, intervention, and reentry strategies. The conference shall be attended by appropriate representatives from criminal street gang enforcement teams, and local collaborative working groups, including representatives of educational, community, religious, and social service organizations, and gang program and policy research evaluators.

(4) NATIONAL DEMONSTRATION SITES.—Not later than 120 days after the date of its formation, the Institute shall select appropriate HIGAA areas to serve as primary national demonstration sites, based on the nature, concentration, and distribution of various gang types, the jurisdiction's established capacity to integrate prevention, intervention, re-entry and enforcement efforts, and the range of particular gang-related issues. After establishing primary national demonstration sites, the Institute shall establish such other secondary sites, to be linked to and receive evaluation, research, and technical assistance through the primary sites, as it may determine appropriate.

(5) DISSEMINATION OF INFORMATION.—Not later than 180 days after the date of its formation, the Institute shall develop and begin dissemination of information about methods to effectively reduce and prevent gang violence, including guides, research and assessment models, case studies, evaluations, and best practices. The Institute shall also create a website, designed to support the implementation of successful gang violence prevention models, and disseminate appropriate information to assist jurisdictions in reducing gang violence.

(6) GANG INTERVENTION ACADEMIES.—Not later than 6 months after the date of its formation, the Institute shall, either directly or through contracts with qualified nonprofit organizations, establish not less than 1 training academy, located in a high intensity gang activity area, to promote effective gang intervention and community policing. The purposes of an academy established under this paragraph shall be to increase professionalism of gang intervention workers, improve officer training for working with gang intervention workers, create best practices for independent cooperation between officers and intervention workers, and develop training for community policing.

(7) SUPPORT.—The Institute shall obtain initial and continuing support from experienced researchers and practitioners, as it determines necessary, to test and assist in implementing its strategies nationally, regionally, and locally.

(8) RESEARCH AGENDA.—The Institute shall establish and implement a core research agenda designed to address areas of particular challenge, including—

(A) how best to apply and continue to test the models described in paragraph (2) in particularly large jurisdictions;

(B) how to foster and maximize the continuing impact of community moral voices in this context;

(C) how to ensure the long-term sustainability of reduced violent crime levels once initial levels of enthusiasm may subside; and

(D) how to apply existing intervention frameworks to emerging local, regional, national, or international gang problems, such as the emergence of the gang known as MS–13.

(9) EVALUATION.—The National Institute of Justice shall evaluate, on a continuing basis, comprehensive gang violence prevention, intervention, suppression, and reentry strategies supported by the Institute, and shall report the results of these evaluations by no later than October 1 each year to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(10) FUNDS.—The Attorney General shall use not less than 3 percent, and not more than 5 percent, of the amounts made available under this section to establish and operate the Institute.

(g) USE OF FUNDS.—Of amounts made available to a local collaborative working group under this section for each fiscal year that are remaining after the costs of hiring a full time coordinator for the local collaborative effort—

(1) 50 percent shall be used for the operation of criminal street gang enforcement teams; and

(2) 50 percent shall be used—

(A) to provide at-risk youth with positive alternatives to gangs and other violent groups and to address the needs of those who leave gangs and other violent groups through—

(i) service providers in the community, including schools and school districts; and

(ii) faith leaders and other individuals experienced at reaching youth who have been involved in violence and violent gangs or groups;

(B) for the establishment and operation of the National Gang Research, Evaluation, and Policy Institute; and

(C) to support and provide technical assistance to research in criminal justice, social services, and community gang violence prevention collaborations.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2009 through 2013. Any funds made available under this subsection shall remain available until expended.

**SEC. 302. GANG PREVENTION GRANTS.**

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice may make grants, in accordance with such regulations as the Attorney General may prescribe, to States, units of local government, tribal governments, and qualified private entities, to develop community-based programs that provide crime prevention, research, and intervention services that are designed for gang members and at-risk youth.

(b) USE OF GRANT AMOUNTS.—A grant under this section may be used (including through subgrants) for—

(1) preventing initial gang recruitment and involvement among younger teenagers;

(2) reducing gang involvement through nonviolent and constructive activities, such as community service programs, development of nonviolent conflict resolution skills, employment and legal assistance, family counseling, and other safe, community-based alternatives for high-risk youth;

(3) developing in-school and after-school gang safety, control, education, and resistance procedures and programs;

(4) identifying and addressing early childhood risk factors for gang involvement, including parent training and childhood skills development;

(5) identifying and fostering protective factors that buffer children and adolescents from gang involvement;

(6) developing and identifying investigative programs designed to deter gang recruitment, involvement, and activities through effective intelligence gathering;

(7) developing programs and youth centers for first-time nonviolent offenders facing alternative penalties, such as mandated participation in community service, restitution, counseling, and education and prevention programs;

(8) implementing regional, multidisciplinary approaches to combat gang violence though coordinated programs for prevention and intervention (including street outreach programs and other peacemaking activities) or coordinated law enforcement activities (including regional gang task forces and regional crime mapping strategies that enhance focused prosecutions and reintegration strategies for offender reentry); or

(9) identifying at-risk and high-risk students through home visits organized through joint collaborations between law enforcement, faith-based organizations, schools, and social workers.

(c) GRANT REQUIREMENTS.—

(1) MAXIMUM.—The amount of a grant under this section may not exceed $1,000,000.

(2) CONSULTATION AND COOPERATION.—Each recipient of a grant under this section shall have in effect on the date of the application by that entity agreements to consult and cooperate with local, State, or Federal law enforcement and participate, as appropriate, in coordinated efforts to reduce gang activity and violence.

(d) ANNUAL REPORT.—Each recipient of a grant under this section shall submit to the Attorney General, for each year in which funds from a grant received under this section are expended, a report containing—

(1) a summary of the activities carried out with grant funds during that year;

(2) an assessment of the effectiveness of the crime prevention, research, and intervention activities of the recipient, based on data collected by the grant recipient;

(3) a strategic plan for the year following the year described in paragraph (1);

(4) evidence of consultation and cooperation with local, State, or Federal law enforcement or, if the grant recipient is a government entity, evidence of consultation with an organization engaged in any activity described in subsection (b); and

(5) such other information as the Attorney General may require.

(e) DEFINITION.—In this section, the term ''units of local government'' includes sheriffs departments, police departments, and local prosecutor offices.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $35,000,000 for each of the fiscal years 2009 through 2013.

**SEC. 303. ENHANCEMENT OF PROJECT SAFE NEIGHBORHOODS INITIATIVE TO IMPROVE ENFORCEMENT OF CRIMINAL LAWS AGAINST VIOLENT GANGS.**

(a) IN GENERAL.—While maintaining the focus of Project Safe Neighborhoods as a comprehensive, strategic approach to reducing gun violence in America, the Attorney General is authorized to expand the Project Safe Neighborhoods program to require each United States attorney to—

(1) identify, investigate, and prosecute significant criminal street gangs operating within their district; and

(2) coordinate the identification, investigation, and prosecution of criminal street gangs among Federal, State, and local law enforcement agencies.

(b) ADDITIONAL STAFF FOR PROJECT SAFE NEIGHBORHOODS.—

(1) IN GENERAL.—The Attorney General may hire Assistant United States attorneys, non-attorney coordinators, or paralegals to carry out the provisions of this section.

(2) ENFORCEMENT.—The Attorney General may hire Bureau of Alcohol, Tobacco, Firearms, and Explosives agents for, and otherwise expend additional resources in support of, the Project Safe Neighborhoods/Firearms Violence Reduction program.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for each of fiscal years 2009 through 2013 to carry out this section. Any funds made available under this paragraph shall remain available until expended.

**SEC. 304. ADDITIONAL RESOURCES NEEDED BY THE FEDERAL BUREAU OF INVESTIGATION TO INVESTIGATE AND PROSECUTE VIOLENT CRIMINAL STREET GANGS.**

(a) EXPANSION OF SAFE STREETS PROGRAM.—The Attorney General is authorized to expand the Safe Streets Program of the Federal Bureau of Investigation for the purpose of supporting criminal street gang enforcement teams.

(b) NATIONAL GANG ACTIVITY DATABASE.—

(1) IN GENERAL.—The Attorney General shall establish a National Gang Activity Database to be housed at and administered by the Department of Justice.

(2) DESCRIPTION.—The database required by paragraph (1) shall—

(A) be designed to disseminate gang information to law enforcement agencies throughout the country and, subject to appropriate controls, to disseminate aggregate statistical information to other members of the criminal justice system, community leaders, academics, and the public;

(B) contain critical information on gangs, gang members, firearms, criminal activities, vehicles, and other information useful for investigators in solving and reducing gang-related crimes;

(C) operate in a manner that enables law enforcement agencies to—

(i) identify gang members involved in crimes;

(ii) track the movement of gangs and members throughout the region;

(iii) coordinate law enforcement response to gang violence;

(iv) enhance officer safety;

(v) provide realistic, up-to-date figures and statistical data on gang crime and violence;

(vi) forecast trends and respond accordingly; and

(vii) more easily solve crimes and prevent violence; and

(D) be subject to guidelines, issued by the Attorney General, specifying the criteria for adding information to the database, the appropriate period for retention of such information, and a process for removing individuals from the database, and prohibiting disseminating gang information to any entity that is not a law enforcement agency, except aggregate statistical information where appropriate.

(3) USE OF RISS SECURE INTRANET.—From amounts made available to carry out this section, the Attorney General shall provide the Regional Information Sharing Systems such sums as are necessary to use the secure intranet known as RISSNET to electronically connect existing gang information systems (including the RISSGang National Gang Database) with the National Gang Activity Database, thereby facilitating the automated information exchange of existing gang data by all connected systems without the need for additional databases or data replication.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise authorized, there are authorized to be appropriated to the Attorney General $10,000,000 for each of fiscal years 2009 through 2013 to carry out this section.

(2) AVAILABILITY.—Any amounts appropriated under paragraph (1) shall remain available until expended.

**SEC. 305. GRANTS TO PROSECUTORS AND LAW ENFORCEMENT TO COMBAT VIOLENT CRIME.**

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(5) to hire additional prosecutors to—

''(A) allow more cases to be prosecuted; and

''(B) reduce backlogs; and

''(6) to fund technology, equipment, and training for prosecutors and law enforcement in order to increase accurate identification of gang members and violent offenders, and to maintain databases with such information

to facilitate coordination among law enforcement and prosecutors.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

**''SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated $20,000,000 for each of the fiscal years 2009 through 2013 to carry out this subtitle.''.

**SEC. 306. EXPANSION AND REAUTHORIZATION OF THE MENTORING INITIATIVE FOR SYSTEM INVOLVED YOUTH.**

(a) EXPANSION.—Section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665(a)) is amended by adding at the end the following: ''The Administrator shall expand the number of sites receiving such grants from 4 to 12.''.

(b) AUTHORIZATION OF PROGRAM.—Section 299(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(c)) is amended—

(1) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(2) by adding at the end the following:

''(2) AUTHORIZATION OF APPROPRIATIONS FOR MENTORING INITIATIVE.—There are authorized to be appropriated to carry out the Mentoring Initiative for System Involved Youth Program under part E $4,800,000 for each of fiscal years 2009 through 2013.''.

**SEC. 307. DEMONSTRATION GRANTS TO ENCOURAGE CREATIVE APPROACHES TO GANG ACTIVITY AND AFTER-SCHOOL PROGRAMS.**

(a) IN GENERAL.—The Attorney General may make grants to public or nonprofit private entities (including faith-based organizations) for the purpose of assisting the entities in carrying out projects involving innovative approaches to combat gang activity.

(b) CERTAIN APPROACHES.—Approaches under subsection (a) may include the following:

(1) Encouraging teen-driven approaches to gang activity prevention.

(2) Educating parents to recognize signs of problems and potential gang involvement in their children.

(3) Teaching parents the importance of a nurturing family and home environment to keep children out of gangs.

(4) Facilitating communication between parents and children, especially programs that have been evaluated and proven effective.

(c) MATCHING FUNDS.—

(1) IN GENERAL.—The Attorney General may make a grant under this section only if the entity receiving the grant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward the cost of activities to be performed with that grant in an amount that is not less than 25 percent of such costs.

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including facilities, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) EVALUATION OF PROJECTS.—

(1) IN GENERAL.—The Attorney General shall establish criteria for the evaluation of projects involving innovative approaches under subsection (a).

(2) GRANTEES.—A grant may be made under subsection (a) only if the entity involved—

(A) agrees to conduct evaluations of the approach in accordance with the criteria established under paragraph (1);

(B) agrees to submit to the Attorney General reports describing the results of the evaluations, as the Attorney General determines to be appropriate; and

(C) submits to the Attorney General, in the application under subsection (e), a plan for conducting the evaluations.

(e) APPLICATION FOR GRANT.—A public or nonprofit private entity desiring a grant under this section shall submit an application in such form, in such manner, and containing such agreements, assurances, and information (including the agreements under subsections (c) and (d) and the plan under subsection (d)(2)(C)) as the Attorney General determines appropriate.

(f) REPORT TO CONGRESS.—Not later than February 1 of each year, the Attorney General shall submit to Congress a report describing the extent to which the approaches under subsection (a) have been successful in reducing the rate of gang activity in the communities in which the approaches have been carried out. Each report under this subsection shall describe the various approaches used under subsection (a) and the effectiveness of each of the approaches.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out this section for each of the fiscal years 2009 through 2013.

**SEC. 308. SHORT-TERM STATE WITNESS PROTECTION SECTION.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 37 of title 28, United States Code, is amended by adding at the end the following:

**''§ 570. Short-term state witness protection section**

''(a) IN GENERAL.—There is established in the United States Marshals Service a Short-Term State Witness Protection Section which shall provide protection for witnesses in State and local trials involving homicide or other major violent crimes pursuant to cooperative agreements with State and local criminal prosecutor's offices and the United States attorney for the District of Columbia.

''(b) ELIGIBILITY.—

''(1) IN GENERAL.—The Short-Term State Witness Protection Section shall give priority in awarding grants and providing services to—

''(A) criminal prosecutor's offices for States with an average of not less than 100 murders per year; and

''(B) criminal prosecutor's offices for jurisdictions that include a city, town, or township with an average violent crime rate per 100,000 inhabitants that is above the national average.

''(2) CALCULATION.—The rate of murders and violent crime under paragraph (1) shall be calculated using the latest available crime statistics from the Federal Bureau of Investigation during 5-year period immediately preceding an application for protection.''.

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 37 of title 28, United States Code, is amended by striking the items relating to sections 570 through 576 and inserting the following:

''570. Short-Term State Witness Protection Section.''.

(b) GRANT PROGRAM.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''eligible prosecutor's office'' means a State or local criminal prosecutor's office or the United States attorney for the District of Columbia; and

(B) the term ''serious violent felony'' has the same meaning as in section 3559(c)(2) of title 18, United States Code.

(2) GRANTS AUTHORIZED.—

(A) IN GENERAL.—The Attorney General is authorized to make grants to eligible prosecutor's offices for purposes of identifying witnesses in need of protection or providing short term protection to witnesses in trials involving homicide or serious violent felony.

(B) ALLOCATION.—Each eligible prosecutor's office receiving a grant under this subsection may—

(i) use the grant to identify witnesses in need of protection or provide witness protection (including tattoo removal services); or

(ii) pursuant to a cooperative agreement with the Short-Term State Witness Protection Section of the United States Marshals Service, credit the grant to the Short-Term State Witness Protection Section to cover the costs to the section of providing witness protection on behalf of the eligible prosecutor's office.

(3) APPLICATION.—

(A) IN GENERAL.—Each eligible prosecutor's office desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

(i) describe the activities for which assistance under this subsection is sought; and

(ii) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $90,000,000 for each of fiscal years 2009 through 2011.

**SEC. 309. WITNESS PROTECTION SERVICES.**

Section 3526 of title 18, United States Code (Cooperation of other Federal agencies and State governments; reimbursement of expenses) is amended by adding at the end the following:

''(c) In any case in which a State government requests the Attorney General to provide temporary protection under section 3521(e) of this title, the costs of providing temporary protection are not reimbursable if the investigation or prosecution in any way relates to crimes of violence committed by a criminal street gang, as defined under the laws of the relevant State seeking assistance under this title.''.

**SEC. 310. EXPANSION OF FEDERAL WITNESS RELOCATION AND PROTECTION PROGRAM.**

Section 3521(a)(1) of title 18 is amended by inserting '', criminal street gang, serious drug offense, homicide,'' after ''organized criminal activity''.

**SEC. 311. FAMILY ABDUCTION PREVENTION GRANT PROGRAM.**

(a) STATE GRANTS.—The Attorney General is authorized to make grants to States for projects involving—

(1) the extradition of individuals suspected of committing a family abduction;

(2) the investigation by State and local law enforcement agencies of family abduction cases;

(3) the training of State and local law enforcement agencies in responding to family abductions and recovering abducted children, including the development of written guidelines and technical assistance;

(4) outreach and media campaigns to educate parents on the dangers of family abductions; and

(5) the flagging of school records.

(b) MATCHING REQUIREMENT.—Not less than 50 percent of the cost of a project for which a grant is made under this section shall be provided by non-Federal sources.

(c) DEFINITIONS.—In this section:

(1) FAMILY ABDUCTION.—The term ''family abduction'' means the taking, keeping, or concealing of a child or children by a parent, other family member, or person acting on behalf of the parent or family member, that prevents another individual from exercising lawful custody or visitation rights.

(2) FLAGGING.—The term ''flagging'' means the process of notifying law enforcement authorities of the name and address of any person requesting the school records of an abducted child.

(3) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any territory or possession of the United States, and any Indian tribe.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for fiscal year 2009 and such sums as may be necessary for each of fiscal years 2010 and 2011.

**SEC. 312. STUDY ON ADOLESCENT DEVELOPMENT AND SENTENCES IN THE FEDERAL SYSTEM.**

(a) IN GENERAL.—The United States Sentencing Commission shall conduct a study to examine the appropriateness of sentences for minors in the Federal system.

(b) CONTENTS.—The study conducted under subsection (a) shall—

(1) incorporate the most recent research and expertise in the field of adolescent brain development and culpability;

(2) evaluate the toll of juvenile crime, particularly violent juvenile crime, on communities;

(3) consider the appropriateness of life sentences without possibility for parole for minor offenders in the Federal system; and

(4) evaluate issues of recidivism by juveniles who are released from prison or detention after serving determinate sentences.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the United States Sentencing Commission shall submit to Congress a report regarding the study conducted under subsection (a), which shall—

(1) include the findings of the Commission;

(2) describe significant cases reviewed as part of the study; and

(3) make recommendations, if any.

(d) REVISION OF GUIDELINES.—If determined appropriate by the United States Sentencing Commission, after completing the study under subsection (a) the Commission may, pursuant to its authority under section 994 of title 28, United States Code, establish or revise guidelines and policy statements, as warranted, relating to the sentencing of minors under this Act or the amendments made by this Act.

**SEC. 313. NATIONAL YOUTH ANTI-HEROIN MEDIA CAMPAIGN.**

Section 709 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1708) is amended—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively; and

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

''(k) PREVENTION OF HEROIN ABUSE.—

''(1) FINDINGS.—Congress finds the following:

''(A) Heroin, and particularly the form known as 'cheese heroin' (a drug made by mixing black tar heroin with diphenhydramine), poses a significant and increasing threat to youth in the United States.

''(B) Drug organizations import heroin from outside of the United States, mix the highly addictive drug with diphenhydramine, and distribute it mostly to youth.

''(C) Since the initial discovery of cheese heroin on Dallas school campuses in 2005, at least 21 minors have died after overdosing on cheese heroin in Dallas County.

''(D) The number of arrests involving possession of cheese heroin in the Dallas area during the 2006–2007 school year increased over 60 percent from the previous school year.

''(E) The ease of communication via the Internet and cell phones allows a drug trend to spread rapidly across the country, creating a national threat.

''(F) Gangs recruit youth as new members by providing them with this inexpensive drug.

''(G) Reports show that there is rampant ignorance among youth about the dangerous and potentially fatal effects of cheese heroin.

''(2) PREVENTION OF HEROIN ABUSE.—In conducting advertising and activities otherwise authorized under this section, the Director shall promote prevention of youth heroin use, including cheese heroin.''.

**SEC. 314. TRAINING AT THE NATIONAL ADVOCACY CENTER.**

(a) IN GENERAL.—The National District Attorneys Association may use the services of the National Advocacy Center in Columbia, South Carolina to conduct a national training program for State and local prosecutors for the purpose of improving the professional skills of State and local prosecutors and enhancing the ability of Federal, State, and local prosecutors to work together.

(b) TRAINING.—The National Advocacy Center in Columbia, South Carolina may provide comprehensive continuing legal education in the areas of trial practice, substantive legal updates, and support staff training.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section $6,500,000, to remain available until expended, for fiscal years 2009 through 2012.

## TITLE IV—CRIME PREVENTION AND INTERVENTION STRATEGIES

**SEC. 401. SHORT TITLE.**

This title may be cited as the ''Prevention Resources for Eliminating Criminal Activity Using Tailored Interventions in Our Neighborhoods Act of 2009'' or the ''PRECAUTION Act''.

**SEC. 402. PURPOSES.**

The purposes of this title are to—

(1) establish a commitment on the part of the Federal Government to provide leadership on successful crime prevention and intervention strategies;

(2) further the integration of crime prevention and intervention strategies into traditional law enforcement practices of State and local law enforcement offices around the country;

(3) develop a plain-language, implementation-focused assessment of those current crime and delinquency prevention and intervention strategies that are supported by rigorous evidence;

(4) provide additional resources to the National Institute of Justice to administer research and development grants for promising crime prevention and intervention strategies;

(5) develop recommendations for Federal priorities for crime and delinquency prevention and intervention research, development, and funding that may augment important Federal grant programs, including the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.), grant programs administered by the Office of Community Oriented Policing Services of the Department of Justice, grant programs administered by the Office of Safe and Drug-Free Schools of the Department of Education, and other similar programs; and

(6) reduce the costs that rising violent crime imposes on interstate commerce.

**SEC. 403. DEFINITIONS.**

In this title, the following definitions shall apply:

(1) COMMISSION.—The term ''Commission'' means the National Commission on Public Safety Through Crime Prevention established under section 404(a).

(2) RIGOROUS EVIDENCE.—The term ''rigorous evidence'' means evidence generated by scientifically valid forms of outcome evaluation, particularly randomized trials (where practicable).

(3) SUBCATEGORY.—The term ''subcategory'' means 1 of the following categories:

(A) Family and community settings (including public health-based strategies).

(B) Law enforcement settings (including probation-based strategies).

(C) School settings (including antigang and general antiviolence strategies).

(4) TOP-TIER.—The term ''top-tier'' means any strategy supported by rigorous evidence of the sizable, sustained benefits to participants in the strategy or to society.

**SEC. 404. NATIONAL COMMISSION ON PUBLIC SAFETY THROUGH CRIME PREVENTION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the National Commission on Public Safety Through Crime Prevention.

(b) MEMBERS.—

(1) IN GENERAL.—The Commission shall be composed of 9 members, of whom—

(A) 3 shall be appointed by the President, 1 of whom shall be the Assistant Attorney General for the Office of Justice Programs or a representative of such Assistant Attorney General;

(B) 2 shall be appointed by the Speaker of the House of Representatives, unless the Speaker is of the same party as the President, in which case 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the minority leader of the House of Representatives;

(C) 1 shall be appointed by the minority leader of the House of Representatives (in addition to any appointment made under subparagraph (B));

(D) 2 shall be appointed by the majority leader of the Senate, unless the majority leader is of the same party as the President, in which case 1 shall be appointed by the majority leader of the Senate and 1 shall be appointed by the minority leader of the Senate; and

(E) 1 member appointed by the minority leader of the Senate (in addition to any appointment made under subparagraph (D)).

(2) PERSONS ELIGIBLE.—

(A) IN GENERAL.—Each member of the Commission shall be an individual who has knowledge or expertise in matters to be studied by the Commission.

(B) REQUIRED REPRESENTATIVES.—At least—

(i) 2 members of the Commission shall be respected social scientists with experience implementing or interpreting rigorous, outcome-based trials; and

(ii) 2 members of the Commission shall be law enforcement practitioners.

(3) CONSULTATION REQUIRED.—The President, the Speaker of the House of Representatives, the minority leader of the House of Representatives, and the majority leader and minority leader of the Senate shall consult prior to the appointment of the members of the Commission to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(4) TERM.—Each member shall be appointed for the life of the Commission.

(5) TIME FOR INITIAL APPOINTMENTS.—The appointment of the members shall be made not later than 60 days after the date of enactment of this Act.

(6) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made, and shall be made not later than 60 days after the date on which the vacancy occurred.

(7) EX OFFICIO MEMBERS.—The Director of the National Institute of Justice, the Director of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Community Capacity Development Office, the Director of the Bureau of Justice Statistics, the Director of the Bureau of Justice Assistance, and the Director of Community Oriented Policing Services (or a representative of each such director) shall each serve in an ex officio capacity on the Commission to provide advice and information to the Commission.

(c) OPERATION.—

(1) CHAIRPERSON.—At the initial meeting of the Commission, the members of the Commission shall elect a chairperson from among its voting members, by a vote of ⅔ of the members of the Commission. The chairperson shall retain this position for the life of the Commission. If the chairperson leaves the Commission, a new chairperson shall be selected, by a vote of ⅔ of the members of the Commission.

(2) MEETINGS.—The Commission shall meet at the call of the chairperson. The initial meeting of the Commission shall take place not later than 30 days after the date on which all the members of the Commission have been appointed.

(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum to conduct business, and the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission.

(4) RULES.—The Commission may establish by majority vote any other rules for the conduct of Commission business, if such rules are not inconsistent with this title or other applicable law.

(d) PUBLIC HEARINGS.—

(1) IN GENERAL.—The Commission shall hold public hearings. The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties under this section.

(2) FOCUS OF HEARINGS.—The Commission shall hold at least 3 separate public hearings, each of which shall focus on 1 of the subcategories.

(3) WITNESS EXPENSES.—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(e) COMPREHENSIVE STUDY OF EVIDENCE-BASED CRIME PREVENTION AND INTERVENTION STRATEGIES.—

(1) IN GENERAL.—The Commission shall carry out a comprehensive study of the effectiveness of crime and delinquency prevention and intervention strategies, organized around the 3 subcategories.

(2) MATTERS INCLUDED.—The study under paragraph (1) shall include—

(A) a review of research on the general effectiveness of incorporating crime prevention and intervention strategies into an overall law enforcement plan;

(B) an evaluation of how to more effectively communicate the wealth of social science research to practitioners;

(C) a review of evidence regarding the effectiveness of specific crime prevention and intervention strategies, focusing on those strategies supported by rigorous evidence;

(D) an identification of—

(i) promising areas for further research and development; and

(ii) other areas representing gaps in the body of knowledge that would benefit from additional research and development;

(E) an assessment of the best practices for implementing prevention and intervention strategies;

(F) an assessment of the best practices for gathering rigorous evidence regarding the implementation of intervention and prevention strategies; and

(G) an assessment of those top-tier strategies best suited for duplication efforts in a range of settings across the country.

(3) INITIAL REPORT ON TOP-TIER CRIME PREVENTION AND INTERVENTION STRATEGIES.—

(A) DISTRIBUTION.—Not later than 18 months after the date on which all members of the Commission have been appointed, the Commission shall submit a public report on the study carried out under this subsection to—

(i) the President;

(ii) Congress;

(iii) the Attorney General;

(iv) the Chief Federal Public Defender of each district;

(v) the chief executive of each State;

(vi) the Director of the Administrative Office of the Courts of each State;

(vii) the Director of the Administrative Office of the United States Courts; and

(viii) the attorney general of each State.

(B) CONTENTS.—The report under subparagraph (A) shall include—

(i) the findings and conclusions of the Commission;

(ii) a summary of the top-tier strategies, including—

(I) a review of the rigorous evidence supporting the designation of each strategy as top-tier;

(II) a brief outline of the keys to successful implementation for each strategy; and

(III) a list of references and other information on where further information on each strategy can be found;

(iii) recommended protocols for implementing crime and delinquency prevention and intervention strategies generally;

(iv) recommended protocols for evaluating the effectiveness of crime and delinquency prevention and intervention strategies; and

(v) a summary of the materials relied upon by the Commission in preparation of the report.

(C) CONSULTATION WITH OUTSIDE AUTHORITIES.—In developing the recommended protocols for implementation and rigorous evaluation of top-tier crime and delinquency prevention and intervention strategies under this paragraph, the Commission shall consult with the Committee on Law and Justice at the National Academy of Science and with national associations representing the law enforcement and social science professions, including the National Sheriffs' Association, the Police Executive Research Forum, the International Association of Chiefs of Police, the Consortium of Social Science Associations, and the American Society of Criminology.

(f) RECOMMENDATIONS REGARDING DISSEMINATION OF THE INNOVATIVE CRIME PREVENTION AND INTERVENTION STRATEGY GRANTS.—

(1) SUBMISSION.—

(A) IN GENERAL.—Not later than 30 days after the date of the final hearing under subsection (d) relating to a subcategory, the Commission shall provide the Director of the National Institute of Justice with recommendations on qualifying considerations relating to that subcategory for selecting grant recipients under section 405.

(B) DEADLINE.—Not later than 13 months after the date on which all members of the Commission have been appointed, the Commission shall provide all recommendations required under this subsection.

(2) MATTERS INCLUDED.—The recommendations provided under paragraph (1) shall include recommendations relating to—

(A) the types of strategies for the applicable subcategory that would best benefit from additional research and development;

(B) any geographic or demographic targets;

(C) the types of partnerships with other public or private entities that might be pertinent and prioritized; and

(D) any classes of crime and delinquency prevention and intervention strategies that should not be given priority because of a preexisting base of knowledge that would benefit less from additional research and development.

(g) FINAL REPORT ON THE RESULTS OF THE INNOVATIVE CRIME PREVENTION AND INTERVENTION STRATEGY GRANTS.—

(1) IN GENERAL.—Following the close of the 3-year implementation period for each grant recipient under section 405, the Commission shall collect the results of the study of the effectiveness of that grant under section 405(b)(3) and shall submit a public report to the President, the Attorney General, Congress, the chief executive of each State, and the attorney general of each State describing each strategy funded under section 405 and its results. This report shall be submitted not later than 5 years after the date of the selection of the chairperson of the Commission.

(2) COLLECTION OF INFORMATION AND EVIDENCE REGARDING GRANT RECIPIENTS.—The Commission's collection of information and evidence regarding each grant recipient under section 405 shall be carried out by—

(A) ongoing communications with the grant administrator at the National Institute of Justice;

(B) visits by representatives of the Commission (including at least 1 member of the Commission) to the site where the grant recipient is carrying out the strategy with a grant under section 405, at least once in the second and once in the third year of that grant;

(C) a review of the data generated by the study monitoring the effectiveness of the strategy; and

(D) other means as necessary.

(3) MATTERS INCLUDED.—The report submitted under paragraph (1) shall include a review of each strategy carried out with a grant under section 405, detailing—

(A) the type of crime or delinquency prevention or intervention strategy;

(B) where the activities under the strategy were carried out, including geographic and demographic targets;

(C) any partnerships with public or private entities through the course of the grant period;

(D) the type and design of the effectiveness study conducted under section 405(b)(3) for that strategy;

(E) the results of the effectiveness study conducted under section 405(b)(3) for that strategy;

(F) lessons learned regarding implementation of that strategy or of the effectiveness study conducted under section 405(b)(3), including recommendations regarding which types of environments might best be suited for successful replication; and

(G) recommendations regarding the need for further research and development of the strategy.

(h) PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(2) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation.

(3) STAFF.—

(A) IN GENERAL.—The chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF FEDERAL EMPLOYEES.—With the affirmative vote of ⅔ of the members of the Commission, any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(i) CONTRACTS FOR RESEARCH.—

(1) NATIONAL INSTITUTE OF JUSTICE.—With a ⅔ affirmative vote of the members of the Commission, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out its duties under this title. The National Institute of Justice shall contract with the researchers and experts selected by the Commission to provide funding in exchange for their services.

(2) OTHER ORGANIZATIONS.—Nothing in this subsection shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the duties of the Commission under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out this section.

(k) TERMINATION.—The Commission shall terminate on the date that is 30 days after the date on which the Commission submits the last report required by this section.

(l) EXEMPTION.—The Commission shall be exempt from the Federal Advisory Committee Act.

**SEC. 405. INNOVATIVE CRIME PREVENTION AND INTERVENTION STRATEGY GRANTS.**

(a) GRANTS AUTHORIZED.—The Director of the National Institute of Justice may make grants to public and private entities to fund the implementation and evaluation of innovative crime or delinquency prevention or intervention strategies. The purpose of grants under this section shall be to provide funds for all expenses related to the implementation of such a strategy and to conduct a rigorous study on the effectiveness of that strategy.

(b) GRANT DISTRIBUTION.—

(1) PERIOD.—A grant under this section shall be made for a period of not more than 3 years.

(2) AMOUNT.—The amount of each grant under this section—

(A) shall be sufficient to ensure that rigorous evaluations may be performed; and

(B) shall not exceed $2,000,000.

(3) EVALUATION SET-ASIDE.—

(A) IN GENERAL.—A grantee shall use not less than $300,000 and not more than $700,000 of the funds from a grant under this section for a rigorous study of the effectiveness of the strategy during the 3-year period of the grant for that strategy.

(B) METHODOLOGY OF STUDY.—

(i) IN GENERAL.—Each study conducted under subparagraph (A) shall use an evaluator and a study design approved by the employee of the National Institute of Justice hired or assigned under subsection (c).

(ii) CRITERIA.—The employee of the National Institute of Justice hired or assigned under subsection (c) shall approve—

(I) an evaluator that has successfully carried out multiple studies producing rigorous evidence of effectiveness; and

(II) a proposed study design that is likely to produce rigorous evidence of the effectiveness of the strategy.

(iii) APPROVAL.—Before a grant is awarded under this section, the evaluator and study design of a grantee shall be approved by the employee of the National Institute of Justice hired or assigned under subsection (c).

(4) DATE OF AWARD.—Not later than 6 months after the date of receiving recommendations relating to a subcategory from the Commission under section 404(f), the Director of the National Institute of Justice shall award all grants under this section relating to that subcategory.

(5) TYPE OF GRANTS.—One-third of the grants made under this section shall be made in each subcategory. In distributing grants, the recommendations of the Commission under section 404(f) shall be considered.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $18,000,000 to carry out this subsection.

(c) DEDICATED STAFF.—

(1) IN GENERAL.—The Director of the National Institute of Justice shall hire or assign a full-time employee to oversee the grants under this section.

(2) STUDY OVERSIGHT.—The employee of the National Institute of Justice hired or assigned under paragraph (1) shall be responsible for ensuring that grantees adhere to the study design approved before the applicable grant was awarded.

(3) LIAISON.—The employee of the National Institute of Justice hired or assigned under paragraph (1) may be used as a liaison between the Commission and the recipients of a grant under this section. That employee shall be responsible for ensuring timely cooperation with Commission requests.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000 for each of fiscal years 2009 through 2013 to carry out this subsection.

(d) APPLICATIONS.—A public or private entity desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Director of the National Institute of Justice may reasonably require.

(e) COOPERATION WITH THE COMMISSION.—Grant recipients shall cooperate with the Commission in providing them with full information on the progress of the strategy being carried out with a grant under this section, including—

(1) hosting visits by the members of the Commission to the site where the activities under the strategy are being carried out;

(2) providing pertinent information on the logistics of establishing the strategy for which the grant under this section was received, including details on partnerships, selection of participants, and any efforts to publicize the strategy; and

(3) responding to any specific inquiries that may be made by the Commission.

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. LIEBERMAN, Mrs. BOXER, Mr. NELSON, of Florida, Mr. KERRY, and Mr. SPECTER):

S. 133. A bill to prohibit any recipient of emergency Federal economic assistance from using such funds for lobbying expenditures or political contributions, to improve transparency, enhance accountability, encourage responsible corporate governance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senator SNOWE to introduce legislation that will increase transparency, strengthen oversight, and require firms receiving financial lifelines from the Federal Government to practice responsible corporate governance.

Our bill—the Troubled Asset Relief Program Transparency Reporting Act—will achieve four essential objectives, prohibit firms receiving loans from the Federal Reserve or participating in the Troubled Asset Relief Program, TARP, from using this money for lobbying expenditures or political contributions; require that firms receiving government assistance provide detailed, publicly available quarterly reports to Treasury outlining how taxpayer dollars have been used; establish corporate governance standards to ensure that firms receiving Federal assistance do not waste money on unnecessary expenditures; and create penalties of at least $100,000 per violation for firms that fail to meet the corporate governance standards established in the bill.

The need for such legislation has become very apparent in the 3 months since Congress approved the economic rescue plan.

The economic rescue legislation passed in October includes several oversight boards and accountability provisions to ensure that public funds are effectively distributed. But, it does not include any reporting requirements for firms that receive Federal dollars.

This is a significant omission, especially given the amount of Federal money that some firms are receiving.

The Treasury Department has committed to purchasing $250 billion of preferred stock in financial institutions. More than 200 financial institutions have received roughly $188 billion. Of these funds, $125 billion was allocated to nine large national banks.

In addition to injecting capital into banks, American Insurance Group, AIG, has received an additional $40 billion and CitiGroup has received $20 billion of TARP funds.

Last month, GM received more than $10 billion in financing through the recently implemented Automotive Industry Financing Program.

This effectively means that the entirety of the first $350 billion of rescue funds has been spent.

When you add up all of the taxpayer dollars put on the line—from $30 billion

provided to Bear Stearns in March, $200 billion available to Fannie Mae and Freddie Mac, $150 billion to AIG, $700 billion for TARP, plus the direct lending programs at the Federal Reserve—we are talking about well over 1 trillion Federal dollars.

I certainly don't think it is unreasonable for the public to know how their money is being spent, and I am not the only Member of Congress or elected official who feels this way.

In response to questions posed by the Congressional Oversight Panel for Economic Stabilization, the Treasury Department noted that it was committed to rigorous oversight of executive compensation packages. This may be the case, but executive compensation is only the beginning.

While I am pleased that CEOs at some financial institutions that accepted Federal assistance did not accept their annual bonuses last year, we still do not have an official accounting of how Federal funds were used.

Certainly Americans deserve assurances that struggling firms will not use public funds to pay exorbitant salaries or bonuses.

The same can be said for these funds going towards dividend payments, or mergers and acquisitions.

The Government Accountability Office, GAO, has reported that the Treasury Department had no strong accountability or oversight function to ensure that banks were using rescue assistance with the best interests of the public in mind.

It noted that Treasury had little ability to ensure that participating firms complied with laws already limiting executive compensation and conflicts of interest.

An investigation last month by the Associated Press found that many banks that have accepted Federal assistance are not able to say with certainty exactly how they have used the money. Some of these banks would not even discuss the issue.

We cannot be sure that the rescue funds are being used to stabilize the economy if banks are not keeping proper accounting of their use, and those that do will not disclose it.

Shining light on how firms use public dollars not only makes good sense, but it will also act as a deterrent to irresponsible behavior.

On October 16, 2008, the Wall Street Journal reported that AIG, which received billions of dollars in Federal rescue funds, was continuing to lobby State regulators to delay implementation of strengthened licensing standards for mortgage brokers and lenders.

AIG was lobbying against sensible standards created by the SAFE Mortgage Licensing Act. This bill, introduced by Senator MARTINEZ and myself, established basic minimum regulations for the mortgage industry to ensure consumers were adequately protected.

Before this bill, in some States virtually anyone—even those with criminal records—could go out and get a mortgage broker's license.

Left unchecked, and with no regulations to stop them, unscrupulous mortgage brokers and lenders flooded the markets with subprime loans that they knew would never be paid back.

Of course, this has served as one of the catalysts for our current economic predicament.

And now AIG, propped up by billions in Government money after having succumbed to bad investments, was lobbying against the strong enforcement of State laws that might have helped prevent this catastrophe in the first place.

Senator MARTINEZ and I wrote a letter to AIG and, to the company's credit, CEO Edward Liddy immediately suspended the company's lobbying operations.

I find it completely unacceptable that taxpayer dollars intended to stabilize the economy could find their way into the bank accounts of lobbying firms. The legislation which I am reintroducing today will make sure that does not happen.

I do not mean to pick on AIG, but they have also been the poster child for wasteful spending by rescued firms.

In September 2008, just days after receiving an $85 billion Federal lifeline, the management of AIG treated itself to a $444,000 spa weekend at the St. Regis resort in Monarch Beach, California. This included $200,000 for rooms, $150,000 for fine dining and $23,000 in spa charges.

AIG executives spent the last 2 days of September 2008 on a golf outing at Mandalay Bay in Las Vegas at a cost of up to $500,000. They were planning to follow this with a few days at the Ritz Carlton in Half Moon Bay, but cancelled after it hit the news and drew fire from congressional leaders.

As news of these wasteful expenditures was making headlines, AIG received another $37.8 billion in emergency loans from the Federal Government.

Shortly thereafter, the Associated Press reported that—even as AIG was asking Congress for these loans—AIG executives were spending $86,000 on a pheasant hunting expedition in England. During the trip, they stayed at a 17th century manor.

One AIG executive named Sebastian Preil was quoted as saying that: ''The recession will go on until about 2011, but the shooting was great today and we are relaxing fine.''

Once these lapses in judgment came to light, AIG chief executive Edward Liddy informed Congress that he was putting an end to all nonessential expenditures. Yet weeks later, an undercover news crew caught AIG executives at the Hilton Squaw Peak Resort in Phoenix, hosting a seminar for financial planners complete with cocktails and limousines.

One would think that a brush with collapse and total failure might have a sobering effect on some of these firms.

But this penchant for wasteful junkets in the face of complete failure was not unique to AIG.

Following enactment of TARP, news reports have uncovered multiple instances in which rescued firms have been caught making unnecessary and outrageous expenditures, leading many taxpayers to question why these firms are receiving Federal assistance in the first place.

In November, Treasury Secretary Paulson announced that the $700 billion approved by Congress to stabilize financial markets would not be used to purchase illiquid assets but rather to make direct capital injections into financial institutions.

Given this new mission, the need for additional transparency and disclosure is striking.

We have learned that we cannot necessarily count on these firms and their executives to act sensibly and do what is right.

The public needs to know that their tax dollars are being put to good use.

A simple ''trust me'' from the bank executives is not enough.

Americans are struggling, and the pain in my State of California, where unemployment is 8.4 percent, and foreclosure filings exceeded 750,000 last year, is especially acute.

This bill puts in place commonsense solutions to fix some of the deficiencies in the economic stabilization bill.

This legislation is significant and sorely needed.

We must act soon to help restore confidence in this effort and shed light on how public funds are used. We promised the American people transparency and oversight, and this legislation will make good on that promise.

I hope my colleagues will join me to ensure that taxpayer dollars are spent efficiently and responsibly.

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By Mr. KERRY (for himself, Ms. SNOWE, and Mrs. LINCOLN):

S. 138. A bill to amend the Internal Revenue Code of 1986 to repeal alternative minimum tax limitations on private activity bond interest, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today Senator SNOWE and I are introduce legislation to exempt private activity bond interest from the alternative minimum tax, AMT. My colleague from Massachusetts, Representative RICHARD NEAL has introduced similar legislation. Under current law, interest paid on private activity bonds is subject to the alternative minimum tax. This results in the bonds not being very marketable in these difficult economic times.

Making private activity bonds no longer subject to the AMT would help with the issuance of bonds. This legislation would assist in needed relief to State and local governments across the Nation. It would provide more buyers to the market, resulting in interest savings for issuers, and ultimately taxpayers.

Subjecting private activity bond interest to the AMT could cost an issuer 25 to 30 more basis points when issuing an AMT bond compared to a non-AMT bond. However, the recent freezing of the municipal credit market has led the difference to rise as much as 100 basis points. This results in increased costs for various infrastructure projects including airports, docks and other transportation-related facilities; water, sewer and other utility facilities; and solid and hazardous waste disposal facilities.

Last Congress, I worked on a provision to exempt the interest from private activity housing bonds from the AMT and this provision was included in the Housing and Economic Recovery Act of 2008. The legislation Senator SNOWE and I are introducing builds on this provision by exempting interest from all private activity bonds from the AMT.

I believe this legislation will help spur the economy and create jobs. This legislation will provide better funding options for essential infrastructure projects and create jobs across the country. I look forward to working with my colleagues on this important legislation.

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By Mrs. FEINSTEIN:

S. 139. A bill to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing sensitive personally identifiable information, to disclose any breach of such information; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Data Breach Notification Act.

This is a commonsense bill that is aimed at protecting personal information and preventing identity theft. The bill would require businesses and government agencies to notify individuals when their sensitive personal information has been exposed in a data breach.

As many of you know, I have been urging the Senate to adopt this legislation since 2003, when California first imposed a State notification requirement.

That legislation has helped consumers in my State. Federal data breach law would provide uniformity and protect consumers throughout the country.

With every year that passes, the evidence in support of this legislation has only continued to mount.

The cost of identity theft is enormous—estimated at more than $50 billion per year. Some of the costs fall on businesses and banks, which suffer losses from fraudulent transactions. Some of the costs are also borne by consumers, whose finances and credit ratings are disrupted.

Since the beginning of 2005, over 240 million data records containing individuals' sensitive personal data have been exposed in data breaches.

It seems that not a week goes by without news of another security breach that exposes names, addresses, birth dates, social security numbers, or other personal data.

These breaches have spawned a vast online market in stolen identities. Today, each person whose identity is sold on the internet faces a high risk of becoming a victim of identity theft. Each of them faces the expensive and time-consuming nightmare of trying to restore their finances and credit ratings.

According to a report by the Identity Theft Resource Center, the news media reported more than 620 breaches involving personal information during 2008. That works out to about one data security breach every 14 hours—and those are just the ones that are big enough to be covered in the media.

Recent reports of security breaches involving sensitive personal data point out the extent of the problem.

In December 2008, during a website development project at the Florida Agency for Workforce Innovation, the Social Security numbers of more than a quarter of a million people were accidentally posted online.

In August of last year, an employee working weekends at Countrywide copied customer records from an office computer and then sold the personal information of an estimated 2,000,000 mortgage applicants.

In May of 2007, a breach at the Transportation Security Administration made the names, Social Security numbers, birth dates, payroll information, and bank account information of more than 100,000 former employees vulnerable to theft or sale.

In January of that same year, hackers accessed information held by TJX stores, including more than 45 million credit card numbers and more than 455,000 merchandise records containing customers' drivers license numbers.

In May of 2006, there was a breach at the Department of Veterans Affairs that involved the names, birth dates, and Social Security numbers of every veteran discharged from the military since 1975—more than 28 million veterans—every veteran discharged from the military since 1975.

Another disturbing example took place last year at the State Department when the passport files of Senator CLINTON, Senator MCCAIN, and Senator OBAMA—the three leading presidential contenders at the time—were accessed by contractors working for the Department. Though the Department knew about the breaches right away, several months passed before our colleagues were told about the problem.

Unfortunately, this delay is not surprising—because there is currently nothing to require a Federal agency to tell us when a security breach affects our personal data.

That needs to change. That's what my bill does.

Specifically, this legislation requires the Federal Government and private businesses to notify individuals when there has been a security breach involving their sensitive personal data; ensures that the notice is provided without unreasonable delay; creates very limited exceptions to notification for national security and law enforcement purposes, and when law enforcement certifies that there is there is no significant risk of harm to the individual; establishes penalties against those who do not provide the required notice. The provisions of the bill would be enforced by the Federal and State attorneys general; and pre-empts State laws so that there is a single, nationwide notification requirement.

Data security breaches have real consequences. For one thing, they are bad for business because they lead to a loss of confidence—especially in online commerce. A 2005 survey for Consumer Reports showed that 25 percent of Internet users stopped shopping online because of fears about identity theft. Of people who still shopped online, 29 percent said that they had cut back on how often they buy products on the Internet.

Data breaches also pose serious harms for consumers. A November 2007 report from the Federal Trade Commission revealed that identity theft victims spent as much as $5,000 of their own money—and as many as 1,200 hours of their time—recovering from the harm to their finances caused by identity theft.

While not all data breaches lead to identity theft, the cost of stolen identities is so enormous that we should be doing everything we can to solve this problem.

The situation requires action. While Congress has been slow to act, the States have not. In the almost 6 years since the California law took effect, 43 States, the District of Columbia, Puerto Rico, and the Virgin Islands have passed similar laws.

A report issued by the Federal Trade Commission in December 2008 noted that these State data breach notification laws have had several indirect benefits; many businesses across the country have strengthened their safeguard practices in order to avoid data breaches.

By forcing companies to consider the potential cost and liability that may ensue if information is compromised in a data breach, these laws have the indirect benefit of motivating companies to reassess their need to collect personally identifiable information in the first place.

The same benefits would flow from Federal legislation. Additionally, the Data Breach Notification Act would improve the law by creating a single, uniform national standard.

A September 2008 report issued by the President's Identity Theft Task Force again emphasized the need for a unified Federal standard to replace the patchwork of varied state laws currently in place. The December 2008 FTC report made the same point.

A Federal bill will simplify the process of compliance and notification for

businesses, while ensuring that all consumers get the information they need as soon as possible when breaches happen.

We have already waited too long. The Judiciary Committee endorsed this bill unanimously during the last Congress. The epidemic of data breaches in our nation continues unabated. This is a common-sense bill that we should take action on now.

I urge the Senate to pass the Data Breach Notification Act to give Americans the information they need to protect themselves from identity theft.

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

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

S. 139

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Data Breach Notification Act''.

**SEC. 2. NOTICE TO INDIVIDUALS.**

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach of such information notify any resident of the United States whose sensitive personally identifiable information has been, or is reasonably believed to have been, accessed, or acquired.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach involving such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Nothing in this Act shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following the discovery by the agency or business entity of a security breach.

(2) REASONABLE DELAY.—Reasonable delay under this subsection may include any time necessary to determine the scope of the security breach, prevent further disclosures, and restore the reasonable integrity of the data system and provide notice to law enforcement when required.

(3) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this Act, including evidence demonstrating the reasons for any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a Federal law enforcement agency determines that the notification required under this section would impede a criminal investigation, such notification shall be delayed upon written notice from such Federal law enforcement agency to the agency or business entity that experienced the breach.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a Federal law enforcement agency provides written notification that further delay is necessary.

(3) LAW ENFORCEMENT IMMUNITY.—No cause of action shall lie in any court against any law enforcement agency for acts relating to the delay of notification for law enforcement purposes under this Act.

**SEC. 3. EXEMPTIONS.**

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 2 shall not apply to an agency or business entity if the agency or business entity certifies, in writing, that notification of the security breach as required by section 2 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—An agency or business entity may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which an agency or business entity issues a certification under paragraph (1), the certification, accompanied by a description of the factual basis for the certification, shall be immediately provided to the United States Secret Service.

(4) SECRET SERVICE REVIEW OF CERTIFICATIONS.—

(A) IN GENERAL.—The United States Secret Service may review a certification provided by an agency under paragraph (3), and shall review a certification provided by a business entity under paragraph (3), to determine whether an exemption under paragraph (1) is merited. Such review shall be completed not later than 10 business days after the date of receipt of the certification, except as provided in paragraph (5)(C).

(B) NOTICE.—Upon completing a review under subparagraph (A) the United States Secret Service shall immediately notify the agency or business entity, in writing, of its determination of whether an exemption under paragraph (1) is merited.

(C) EXEMPTION.—The exemption under paragraph (1) shall not apply if the United States Secret Service determines under this paragraph that the exemption is not merited.

(5) ADDITIONAL AUTHORITY OF THE SECRET SERVICE.—

(A) IN GENERAL.—In determining under paragraph (4) whether an exemption under paragraph (1) is merited, the United States Secret Service may request additional information from the agency or business entity regarding the basis for the claimed exemption, if such additional information is necessary to determine whether the exemption is merited.

(B) REQUIRED COMPLIANCE.—Any agency or business entity that receives a request for additional information under subparagraph (A) shall cooperate with any such request.

(C) TIMING.—If the United States Secret Service requests additional information under subparagraph (A), the United States Secret Service shall notify the agency or business entity not later than 10 business days after the date of receipt of the additional information whether an exemption under paragraph (1) is merited.

(b) SAFE HARBOR.—

(1) IN GENERAL.—An agency or business entity shall be exempt from the notice requirements under section 2, if—

(A) a risk assessment concludes that there is no significant risk that a security breach has resulted in, or will result in, harm to the individual whose sensitive personally identifiable information was subject to the security breach;

(B) without unreasonable delay, but not later than 45 days after the discovery of a security breach (unless extended by the United States Secret Service), the agency or business entity notifies the United States Secret Service, in writing, of—

(i) the results of the risk assessment; and

(ii) its decision to invoke the risk assessment exemption; and

(C) the United States Secret Service does not indicate, in writing, and not later than 10 business days after the date of receipt of the decision described in subparagraph (B)(ii), that notice should be given.

(2) PRESUMPTIONS.—There shall be a presumption that no significant risk of harm to the individual whose sensitive personally identifiable information was subject to a security breach if such information—

(A) was encrypted; or

(B) was rendered indecipherable through the use of best practices or methods, such as redaction, access controls, or other such mechanisms, that are widely accepted as an effective industry practice, or an effective industry standard.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 2 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice to affected individuals after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if—

(A) the information subject to the security breach includes sensitive personally identifiable information, other than a credit card number or credit card security code, of any type; or

(B) the information subject to the security breach includes both the individual's credit card number and the individual's first and last name.

**SEC. 4. METHODS OF NOTICE.**

An agency, or business entity shall be in compliance with section 2 if it provides both:

(1) INDIVIDUAL NOTICE.—

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity;

(B) telephone notice to the individual personally; or

(C) e-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting

electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—Notice to major media outlets serving a State or jurisdiction, if the number of residents of such State whose sensitive personally identifiable information was, or is reasonably believed to have been, acquired by an unauthorized person exceeds 5,000.

**SEC. 5. CONTENT OF NOTIFICATION.**

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 4, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn what types of sensitive personally identifiable information the agency or business entity maintained about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 10, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

**SEC. 6. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.**

If an agency or business entity is required to provide notification to more than 5,000 individuals under section 2(a), the agency or business entity shall also notify all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices. Such notice shall be given to the consumer credit reporting agencies without unreasonable delay and, if it will not delay notice to the affected individuals, prior to the distribution of notices to the affected individuals.

**SEC. 7. NOTICE TO LAW ENFORCEMENT.**

(a) SECRET SERVICE.—Any business entity or agency shall notify the United States Secret Service of the fact that a security breach has occurred if—

(1) the number of individuals whose sensitive personally identifying information was, or is reasonably believed to have been acquired by an unauthorized person exceeds 10,000;

(2) the security breach involves a database, networked or integrated databases, or other data system containing the sensitive personally identifiable information of more than 1,000,000 individuals nationwide;

(3) the security breach involves databases owned by the Federal Government; or

(4) the security breach involves primarily sensitive personally identifiable information of individuals known to the agency or business entity to be employees and contractors of the Federal Government involved in national security or law enforcement.

(b) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service shall be responsible for notifying—

(1) the Federal Bureau of Investigation, if the security breach involves espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service under section 3056(a) of title 18, United States Code;

(2) the United States Postal Inspection Service, if the security breach involves mail fraud; and

(3) the attorney general of each State affected by the security breach.

(c) TIMING OF NOTICES.—The notices required under this section shall be delivered as follows:

(1) Notice under subsection (a) shall be delivered as promptly as possible, but not later than 14 days after discovery of the events requiring notice.

(2) Notice under subsection (b) shall be delivered not later than 14 days after the United States Secret Service receives notice of a security breach from an agency or business entity.

**SEC. 8. ENFORCEMENT.**

(a) CIVIL ACTIONS BY THE ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any business entity that engages in conduct constituting a violation of this Act and, upon proof of such conduct by a preponderance of the evidence, such business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—If it appears that a business entity has engaged, or is engaged, in any act or practice constituting a violation of this Act, the Attorney General may petition an appropriate district court of the United States for an order—

(A) enjoining such act or practice; or

(B) enforcing compliance with this Act.

(2) ISSUANCE OF ORDER.—A court may issue an order under paragraph (1), if the court finds that the conduct in question constitutes a violation of this Act.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this Act are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(b)(1)) is amended by inserting ‘‘, or evidence that the consumer has received notice that the consumer’s financial information has or may have been compromised,’’ after ‘‘identity theft report’’.

**SEC. 9. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of a business entity in a practice that is prohibited under this Act, the State or the State or local law enforcement agency on behalf of the residents of the agency’s jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this Act; or

(C) obtain civil penalties of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this Act, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) initiate an action in the appropriate United States district court under section 8 and move to consolidate all pending actions, including State actions, in such court;

(3) intervene in an action brought under subsection (a)(2); and

(4) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this Act or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this Act against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this Act establishes a private cause of action against a business entity for violation of any provision of this Act.

**SEC. 10. EFFECT ON FEDERAL AND STATE LAW.**

The provisions of this Act shall supersede any other provision of Federal law or any provision of law of any State relating to notification by a business entity engaged in interstate commerce or an agency of a security breach, except as provided in section 5(b).

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this Act.

**SEC. 12. REPORTING ON RISK ASSESSMENT EXEMPTIONS.**

(a) IN GENERAL.—The United States Secret Service shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on—

(1) the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 3(b) of this Act and the response of the United States Secret Service to such notices; and

(2) the number and nature of security breaches subject to the national security and law enforcement exemptions under section 3(a) of this Act.

(b) REPORT.—Any report submitted under subsection (a) shall not disclose the contents of any risk assessment provided to the United States Secret Service under this Act.

**SEC. 13. DEFINITIONS.**

In this Act, the following definitions shall apply:

(1) AGENCY.—The term ''agency'' has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ''affiliate'' means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term ''business entity'' means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof engaged in interstate commerce.

(4) ENCRYPTED.—The term ''encrypted''—

(A) means the protection of data in electronic form, in storage or in transit, using an encryption technology that has been adopted by an established standards setting body which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(B) includes appropriate management and safeguards of such cryptographic keys so as to protect the integrity of the encryption.

(5) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form serving as a means of identification, as defined by section 1028(d)(7) of title 18, United State Code.

(6) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions that result in, or there is a reasonable basis to conclude has resulted in, acquisition of or access to sensitive personally identifiable information that is unauthorized or in excess of authorization.

(B) EXCLUSION.—The term ''security breach'' does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements.

(7) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any information or compilation of information, in electronic or digital form that includes—

(A) an individual's first and last name or first initial and last name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Home address or telephone number.

(II) Mother's maiden name, if identified as such.

(III) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique account identifier, electronic identification number, user name, or routing code in combination with any associated security code, access code, or password that is required for an individual to obtain money, goods, services or any other thing of value; or

(B) a financial account number or credit or debit card number in combination with any security code, access code or password that is required for an individual to obtain credit, withdraw funds, or engage in a financial transaction.

**SEC. 14. EFFECTIVE DATE.**

This Act shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

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By Mrs. FEINSTEIN:

S. 140. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation that will help address the threats to public health and safety caused by abandoned hardrock mines.

There are as many as 500,000 abandoned mines strewn across the western states—47,000 alone are found on California's public lands.

The scope of this problem is huge.

In the past two years, eight accidents at abandoned mine sites were reported in California. Throughout the United States, at least 37 deaths occurred between 1999 and 2007 and the potential for more is ominous.

Basic remediation efforts, such as warning signs and fencing, can provide protection.

However, some abandoned mines pose a more serious threat. Environmental impact studies have shown that important watersheds are being polluted by high levels of harmful minerals, such as mercury, lead, arsenic and asbestos. In California alone, seventeen watersheds have been affected.

Yet not enough is being done to clean up these dangerous Gold Rush-era mines.

The bill that I am introducing today is not intended to be a comprehensive hardrock mining bill, but it is an important piece of the reform needed.

The Abandoned Mine Reclamation Act of 2009 will reform the 1872 Mining Law by establishing fees to support abandoned mine clean up; establishing a royalty payment system; and creating an Abandoned Mine Clean up Fund.

Unlike the coal industry, the metal mining industry does not pay to clean up its legacy of abandoned mines, making lack of funding the primary obstacle to abandoned hardrock mine clean up.

This legislation would help fund the clean up of abandoned mines by placing an Abandoned Mine Reclamation fee on all hardrock minerals, using the underground coal industry fee program as a model. Specifically, it would create a 0.3 percent reclamation fee on the gross value of all hardrock mineral mining, including mining on Federal, State, tribal, local and private lands.

The condition of abandoned coal mines has greatly improved since the Surface Mining Control and Reclamation Act of 1977 established a fee to finance restoration of land abandoned or inadequately restored by coal mining companies.

This fund has been able to raise billions of dollars for coal mine reclamation—and I believe that a similar program could be part of the solution to hardrock abandoned mine clean up.

This legislation establishes a royalty fee on Hardrock Mining Claims.

Companies that mine for gold and silver on Federal lands are not currently required to pay any royalties to the Federal Government—even though we are experiencing near record high gold prices.

These companies should be required to pay their fair share.

The Abandoned Mine Reclamation Act establishes an 8 percent royalty on new mining operations located on Federal lands, and a 4 percent royalty for existing operations.

The legislation I am introducing today also creates an Abandoned Mine Fund.

In these times of budget deficits, it's clear that we will not be able to simply appropriate the funds necessary to clean up the hundreds of thousands of abandoned hard rock mines.

So, this legislation will create an abandoned mine clean up fund to ensure that we have a lasting source of funding for this critical clean up effort.

Specifically, the fund will direct the royalties, as well as other payments collected from mining operations, and dedicate them to the clean up of abandoned hardrock mines.

I recognize the important role that mining has played in California's history. The discovery of gold at Sutter Mill near Placerville, California in 1848 was a defining moment for my State and the U.S.

It is fair to say that without mining and the Gold Rush, California and the entire country would be a far different place than it is today.

The history of mining in California, however, is tarnished by the legacy of tens of thousands of abandoned mines. In particular, abandoned mine sites on Federal lands.

A recent report from the Department of the Interior's Inspector General underscores the scope and the urgency of

the abandoned mine problem on public lands—in particular, those managed by the Bureau of Land Management and the National Park Service.

The report concluded that public health and safety have been compromised by mismanagement, funding shortfalls and systematic neglect.

The report found the potential for more deaths and injuries is ominous. A number of abandoned mine sites on public lands present an immediate danger due to open shafts, collapsing mine walls, and rotting structures. Some have deadly gases that accumulate in underground passages. And others leach hazardous chemicals like arsenic, lead and mercury into groundwater.

The Bureau of Land Management's abandoned mines program has been neglected and understaffed. In some cases, staff were told by their supervisors to ignore these problems; and those who did come forward to identify contaminated sites were criticized or outright threatened.

The scope of the problem is less severe at the National Parks Service. But perennial funding shortfalls impede the clean up of known abandoned mines.

At the heart of the problem is a century-old law signed by President Ulysses S. Grant to promote the settlement of publicly-owned lands in the western states.

The 1872 Mining Law created national standards for hardrock mining operations on Federal public lands; however, it has not been substantially updated for 137 years. Under this outdated framework, the hardrock mining industry does not pay royalties for minerals taken from Federal land and is not obligated to share in the cost of clean up for abandoned mines. Since the enactment of this law, hundreds of thousands of mines have been abandoned.

Congress needs to move swiftly to address this issue before more damage and accidents occur.

Though this legislation is a significant step forward for the funding of abandoned mines, I know that there is much more mining reform to be done.

I look forward to working with my colleagues to modernize our Nation's mining laws and accelerate the clean up of dangerous abandoned mines.

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

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

S. 140

*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 ''Abandoned Mine Reclamation Act of 2009''.

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



**SEC. 2. DEFINITIONS AND REFERENCES.**

(a) IN GENERAL.—As used in this Act:

(1) The term ''affiliate'' means with respect to any person, any of the following:

(A) Any person who controls, is controlled by, or is under common control with such person.

(B) Any partner of such person.

(C) Any person owning at least 10 percent of the voting shares of such person.

(2) The term ''applicant'' means any person applying for a permit under this Act or a modification to or a renewal of a permit under this Act.

(3) The term ''beneficiation'' means the crushing and grinding of locatable mineral ore and such processes as are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques.

(4) The term ''claim holder'' means a person holding a mining claim, millsite claim, or tunnel site claim located under the general mining laws and maintained in compliance with such laws and this Act. Such term may include an agent of a claim holder.

(5) The term ''control'' means having the ability, directly or indirectly, to determine (without regard to whether exercised through one or more corporate structures) the manner in which an entity conducts mineral activities, through any means, including without limitation, ownership interest, authority to commit the entity's real or financial assets, position as a director, officer, or partner of the entity, or contractual arrangement.

(6) The term ''exploration''—

(A) subject to subparagraphs (B) and (C), means creating surface disturbance other than casual use, to evaluate the type, extent, quantity, or quality of minerals present;

(B) includes mineral activities associated with sampling, drilling, and analyzing locatable mineral values; and

(C) does not include extraction of mineral material for commercial use or sale.

(7) The term ''Federal land'' means any land, and any interest in land, that is owned by the United States and open to location of mining claims under the general mining laws.

(8) The term ''hardrock mineral'' has the meaning given the term ''locatable mineral'' except that legal and beneficial title to the mineral need not be held by the United States.

(9) The term ''Indian lands'' means lands held in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual subject to a restriction by the United States against alienation.

(10) The term ''Indian tribe'' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) The term ''locatable mineral''—

(A) subject to subparagraph (B), means any mineral, the legal and beneficial title to which remains in the United States and that is not subject to disposition under any of—

(i) the Mineral Leasing Act (30 U.S.C. 181 et seq.);

(ii) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.);

(iii) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 et seq.); or

(iv) the Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 et seq.); and

(B) does not include any mineral that is subject to a restriction against alienation imposed by the United States and is—

(i) held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101); or

(ii) owned by any Indian or Indian tribe, as defined in that section.

(12) The term ''mineral activities'' means any activity on a mining claim, millsite claim, or tunnel site claim for, related to, or incidental to, mineral exploration, mining, beneficiation, processing, or reclamation activities for any locatable mineral.

(13) The term ''operator'' means any person proposing or authorized by a permit issued under this Act to conduct mineral activities and any agent of such person.

(14) The term ''person'' means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, corporation, cooperative, or other organization and any instrumentality of State or local government including any publicly owned utility or publicly owned corporation of State or local government.

(15) The term ''processing'' means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including but not limited to smelting and electrolytic refining.

(16) The term ''Secretary'' means the Secretary of the Interior, unless otherwise specified.

(17) The term ''temporary cessation'' means a halt in mine-related production activities for a continuous period of no longer than 5 years.

(b) REFERENCES TO OTHER LAWS.—(1) Any reference in this Act to the term general mining laws is a reference to those Acts that generally comprise chapters 2, 12A, and 16, and sections 161 and 162, of title 30, United States Code.

(2) Any reference in this Act to the Act of July 23, 1955, is a reference to the Act entitled ''An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes'' (30 U.S.C. 601 et seq.).

**SEC. 3. APPLICATION RULES.**

(a) IN GENERAL.—This Act applies to any mining claim, millsite claim, or tunnel site claim located under the general mining laws, before, on, or after the date of enactment of this Act, except as provided in subsection (b).

(b) PREEXISTING CLAIMS.—(1) Any unpatented mining claim or millsite claim located under the general mining laws before the date of enactment of this Act for which a plan of operation has not been approved or a notice filed prior to the date of enactment shall, upon the effective date of this Act, be subject to the requirements of this Act, except as provided in paragraph (2).

(2)(A) If a plan of operations is approved for mineral activities on any claim or site referred to in paragraph (1) prior to the date of enactment of this Act but such operations have not commenced prior to the date of enactment of this Act—

(i) during the 10-year period beginning on the date of enactment of this Act, mineral activities at such claim or site shall be subject to such plan of operations;

(ii) during such 10-year period, modifications of any such plan may be made in accordance with the provisions of law applicable prior to the enactment of this Act if such modifications are deemed minor by the Secretary concerned; and

(iii) the operator shall bring such mineral activities into compliance with this Act by the end of such 10-year period.

(B) Where an application for modification of a plan of operations referred to in subparagraph (A)(ii) has been timely submitted and an approved plan expires prior to Secretarial action on the application, mineral activities and reclamation may continue in accordance with the terms of the expired plan until the Secretary makes an administrative decision on the application.

(c) FEDERAL LANDS SUBJECT TO EXISTING PERMIT.—(1) Any Federal land shall be subject to the requirements of section 101(a)(2) if the land is—

(A) subject to an operations permit; and

(B) producing valuable locatable minerals in commercial quantities prior to the date of enactment of this Act.

(2) Any Federal land added through a plan modification to an operations permit on Federal land that is submitted after the date of enactment of this Act shall be subject to the terms of section 101(a)(3).

(d) APPLICATION OF ACT TO BENEFICIATION AND PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL LANDS.—The provisions of this Act shall apply in the same manner and to the same extent to mining claims, millsite claims, and tunnel site claims used for beneficiation or processing activities for any mineral without regard to whether or not the legal and beneficial title to the mineral is held by the United States. This subsection applies only to minerals that are locatable minerals or minerals that would be locatable minerals if the legal and beneficial title to such minerals were held by the United States.

## TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

**SEC. 101. ROYALTY.**

(a) RESERVATION OF ROYALTY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subject to paragraph (3), production of all locatable minerals from any mining claim located under the general mining laws and maintained in compliance with this Act, or mineral concentrates or products derived from locatable minerals from any such mining claim, as the case may be, shall be subject to a royalty of 8 percent of the gross income from mining. The claim holder or any operator to whom the claim holder has assigned the obligation to make royalty payments under the claim and any person who controls such claim holder or operator shall be liable for payment of such royalties.

(2) ROYALTY FOR FEDERAL LANDS SUBJECT TO EXISTING PERMIT.—The royalty under paragraph (1) shall be 4 percent in the case of any Federal land that—

(A) is subject to an operations permit on the date of the enactment of this Act; and

(B) produces valuable locatable minerals in commercial quantities on the date of enactment of this Act.

(3) FEDERAL LAND ADDED TO EXISTING OPERATIONS PERMIT.—Any Federal land added through a plan modification to an operations permit that is submitted after the date of enactment of this Act shall be subject to the royalty that applies to Federal land under paragraph (1).

(4) DEPOSIT.—Amounts received by the United States as royalties under this subsection shall be deposited into the Abandoned Mine Cleanup Fund established by section 201(a).

(b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND TRANSPORTERS.—(1) A person—

(A) who is required to make any royalty payment under this section shall make such payments to the United States at such times and in such manner as the Secretary may by rule prescribe; and

(B) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment that such person may have made of the obligation to make any royalty or other payment under a mining claim.

(2) Any person paying royalties under this section shall file a written instrument, together with the first royalty payment, affirming that such person is responsible for making proper payments for all amounts due for all time periods for which such person has a payment responsibility. Such responsibility for the periods referred to in the preceding sentence shall include any and all additional amounts billed by the Secretary and determined to be due by final agency or judicial action. Any person liable for royalty payments under this section who assigns any payment obligation shall remain jointly and severally liable for all royalty payments due for the claim for the period.

(3) A person conducting mineral activities shall—

(A) develop and comply with the site security provisions in the operations permit designed to protect from theft the locatable minerals, concentrates or products derived therefrom which are produced or stored on a mining claim, and such provisions shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances on mining claims; and

(B) not later than the 5th business day after production begins anywhere on a mining claim, or production resumes after more than 90 days after production was suspended, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(4) The Secretary may by rule require any person engaged in transporting a locatable mineral, concentrate, or product derived therefrom to carry on his or her person, in his or her vehicle, or in his or her immediate control, documentation showing, at a minimum, the amount, origin, and intended destination of the locatable mineral, concentrate, or product derived therefrom in such circumstances as the Secretary determines is appropriate.

(c) RECORDKEEPING AND REPORTING REQUIREMENTS.—A claim holder, operator, or other person directly involved in developing, producing, processing, transporting, purchasing, or selling locatable minerals, concentrates, or products derived therefrom, subject to this Act, through the point of royalty computation shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with rules or orders under this section. Such records shall include, but not be limited to, periodic reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating to the quantity, quality, composition volume, weight, and assay of all minerals extracted from the mining claim. Upon the request of any officer or employee duly designated by the Secretary conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information that may be required by this section shall be made available for inspection and duplication by such officer or employee. Failure by a claim holder, operator, or other person referred to in the first sentence to cooperate with such an audit, provide data required by the Secretary, or grant access to information may, at the discretion of the Secretary, result in involuntary forfeiture of the claim.

(d) AUDITS.—The Secretary is authorized to conduct such audits of all claim holders, operators, transporters, purchasers, processors, or other persons directly or indirectly involved in the production or sales of minerals covered by this Act, as the Secretary deems necessary for the purposes of ensuring compliance with the requirements of this section. For purposes of performing such audits, the Secretary shall, at reasonable times and upon request, have access to, and may copy, all books, papers and other documents that relate to compliance with any provision of this section by any person.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary is authorized to enter into cooperative agreements with the Secretary of Agriculture to share information concerning the royalty management of locatable minerals, concentrates, or products derived therefrom, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties, or other payments) activities under this section in cooperation with the Secretary, and to carry out any other activity described in this section.

(2) Except as provided in paragraph (3) of this subsection (relating to trade secrets), and pursuant to a cooperative agreement, the Secretary of Agriculture shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of locatable minerals, concentrates, or products derived therefrom from claims on lands open to location under this Act.

(3) Trade secrets, proprietary, and other confidential information protected from disclosure under section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, shall be made available by the Secretary to other Federal agencies as necessary to assure compliance with this Act and other Federal laws. The Secretary, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and other Federal officials shall ensure that such information is provided protection in accordance with the requirements of that section.

(f) INTEREST AND SUBSTANTIAL UNDERREPORTING ASSESSMENTS.—(1) In the case of mining claims where royalty payments are not received by the Secretary on the date that such payments are due, the Secretary shall charge interest on such underpayments at the same interest rate as the rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. In the case of an underpayment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount.

(2) If there is any underreporting of royalty owed on production from a claim for any production month by any person liable for royalty payments under this section, the Secretary shall assess a penalty of not greater than 25 percent of the amount of that underreporting.

(3) For the purposes of this subsection, the term ''underreporting'' means the difference

between the royalty on the value of the production that should have been reported and the royalty on the value of the production which was reported, if the value that should have been reported is greater than the value that was reported.

(4) The Secretary may waive or reduce the assessment provided in paragraph (2) of this subsection if the person liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of the enactment of this section, whichever is later.

(5) The Secretary shall waive any portion of an assessment under paragraph (2) of this subsection attributable to that portion of the underreporting for which the person responsible for paying the royalty demonstrates that—

(A) such person had written authorization from the Secretary to report royalty on the value of the production on basis on which it was reported;

(B) such person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported;

(C) such person previously had notified the Secretary, in such manner as the Secretary may by rule prescribe, of relevant reasons or facts affecting the royalty treatment of specific production which led to the underreporting; or

(D) such person meets any other exception which the Secretary may, by rule, establish.

(6) All penalties collected under this subsection shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(g) DELEGATION.—For the purposes of this section, the term ''Secretary'' means the Secretary of the Interior acting through the Director of the Minerals Management Service.

(h) EXPANDED ROYALTY OBLIGATIONS.—Each person liable for royalty payments under this section shall be jointly and severally liable for royalty on all locatable minerals, concentrates, or products derived therefrom lost or wasted from a mining claim located under the general mining laws and maintained in compliance with this Act when such loss or waste is due to negligence on the part of any person or due to the failure to comply with any rule, regulation, or order issued under this section.

(i) GROSS INCOME FROM MINING DEFINED.—For the purposes of this section, for any locatable mineral, the term ''gross income from mining'' has the same meaning as the term ''gross income'' in section 613(c) of the Internal Revenue Code of 1986.

(j) EFFECTIVE DATE.—The royalty under this section shall take effect with respect to the production of locatable minerals after the enactment of this Act, but any royalty payments attributable to production during the first 12 calendar months after the enactment of this Act shall be payable at the expiration of such 12-month period.

(k) FAILURE TO COMPLY WITH ROYALTY REQUIREMENTS.—Any person who fails to comply with the requirements of this section or any regulation or order issued to implement this section shall be liable for a civil penalty under section 109 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1719) to the same extent as if the claim located under the general mining laws and maintained in compliance with this Act were a lease under that Act.

**SEC. 102. HARDROCK MINING CLAIM MAINTENANCE FEE.**

(a) FEE.—

(1) Except as provided in section 2511(e)(2) of the Energy Policy Act of 1992 (relating to oil shale claims), for each unpatented mining claim, mill or tunnel site on federally owned lands, whether located before, on, or after enactment of this Act, each claimant shall pay to the Secretary, on or before August 31 of each year, a claim maintenance fee of $300 per claim to hold such unpatented mining claim, mill or tunnel site for the assessment year beginning at noon on the next day, September 1. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28 et seq.) and the related filing requirements contained in section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(2)(A) The claim maintenance fee required under this subsection shall be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(i) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(ii) have performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28 et seq.) to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(B) For purposes of subparagraph (A), with respect to any claimant, the term ''all related parties'' means—

(i) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; or

(ii) a person affiliated with the claimant, including—

(I) a person controlled by, controlling, or under common control with the claimant; or

(II) a subsidiary or parent company or corporation of the claimant.

(3)(A) The Secretary shall adjust the fees required by this subsection to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 5 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

(B) The Secretary shall provide claimants notice of any adjustment made under this paragraph not later than July 1 of any year in which the adjustment is made.

(C) A fee adjustment under this paragraph shall begin to apply the calendar year following the calendar year in which it is made.

(4) Moneys received under this subsection that are not otherwise allocated for the administration of the mining laws by the Department of the Interior shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(b) LOCATION.—

(1) Notwithstanding any provision of law, for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act and before September 30, 1998, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary a location fee, in addition to the fee required by subsection (a) of $50 per claim.

(2) Moneys received under this subsection that are not otherwise allocated for the administration of the mining laws by the Department of the Interior shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(c) TRANSFER.—

(1) Notwithstanding any provision of law, for every unpatented mining claim, mill, or tunnel site the ownership interest of which is transferred after the date of enactment of this Act, the transferee shall, at the time the transfer document is recorded with the Bureau of Land Management, pay to the Secretary a transfer fee, in addition to the fee required by subsection (a) of $100 per claim.

(2) Moneys received under this subsection that are not otherwise allocated for the administration of the mining laws by the Department of the Interior shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(d) CO-OWNERSHIP.—The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28 et seq.) will remain in effect except that the annual claim maintenance fee, where applicable, shall replace applicable assessment requirements and expenditures.

(e) FAILURE TO PAY.—Failure to pay the claim maintenance fee as required by subsection (a) shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

(f) OTHER REQUIREMENTS.—

(1) Nothing in this section shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b) of that Act, which remain in effect.

(2) Section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) is amended by inserting ''or section 102 of the Abandoned Mine Reclamation Act of 2009'' after ''Act of 1993,''.

**SEC. 103. RECLAMATION FEE.**

(a) IMPOSITION OF FEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), each operator of a hardrock minerals mining operation shall pay to the Secretary, for deposit in the Abandoned Mine Cleanup Fund established by section 201(a), a reclamation fee of 0.3 percent of the gross income of the hardrock minerals mining operation for each calendar year.

(2) EXCEPTION.—With respect to any calendar year required under subsection (b), an operator of a hardrock minerals mining operation shall not be required to pay the reclamation fee under paragraph (1) if—

(A) the gross annual income of the hardrock minerals mining operation for the calendar year is an amount less than $500,000; and

(B) the hardrock minerals mining operation is comprised of—

(i) 1 or more hardrock mineral mines located in a single patented claim; or

(ii) 2 or more contiguous patented claims.

(b) PAYMENT DEADLINE.—The reclamation fee shall be paid not later than 60 days after the end of each calendar year beginning with the first calendar year occurring after the date of enactment of this Act.

(c) DEPOSIT OF REVENUES.—Amounts received by the Secretary under subsection (a)(1) shall be deposited into the Abandoned Mine Cleanup Fund established by section 201(a).

(d) EFFECT.—Nothing in this section requires a reduction in, or otherwise affects, any similar fee required under any law (including regulations) of any State.

**SEC. 104. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY OF CLAIMS.**

Timely payment of the claim maintenance fee required by section 102(a) of this Act or any related law relating to the use of Federal land, asserts the claimant's authority to use and occupy the Federal land concerned for prospecting and exploration, consistent with the requirements of this Act and other applicable law.

**TITLE II—ABANDONED MINE CLEANUP FUND**

**SEC. 201. ESTABLISHMENT OF FUND.**

(a) ESTABLISHMENT.—There is established on the books of the Treasury of the United States a separate account to be known as the Abandoned Mine Cleanup Fund (hereinafter in this title referred to as the ''Fund'').

(b) INVESTMENT.—The Secretary shall notify the Secretary of the Treasury as to what portion of the Fund is not, in the Secretary's judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities.

**SEC. 202. CONTENTS OF FUND.**

The following amounts shall be credited to the Fund:

(1) All donations by persons, corporations, associations, and foundations for the purposes of this title.

(2) All amounts deposited in the Fund under section 101 (relating to royalties and penalties for underreporting).

(3) All amounts received by the United States pursuant to section 102 as claim maintenance, location, and transfer fees minus the moneys allocated for administration of the mining laws by the Department of the Interior.

(4) All amounts received by the Secretary in accordance with section 103(a).

(5) All income on investments under section 201(b).

**SEC. 203. USE AND OBJECTIVES OF THE FUND.**

(a) IN GENERAL.—The Secretary is authorized, without further appropriation, to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past mineral activities on lands the legal and beneficial title to which resides in the United States, land within the exterior boundary of any national forest system unit, or other lands described in subsection (d), including any of the following:

(1) Protecting public health and safety.

(2) Preventing, abating, treating, and controlling water pollution created by abandoned mine drainage, including in river watershed areas.

(3) Reclaiming and restoring abandoned surface and underground mined areas.

(4) Reclaiming and restoring abandoned milling and processing areas.

(5) Backfilling, sealing, or otherwise controlling, abandoned underground mine entries.

(6) Revegetating land adversely affected by past mineral activities in order to prevent erosion and sedimentation, to enhance wildlife habitat, and for any other reclamation purpose.

(7) Controlling of surface subsidence due to abandoned underground mines.

(b) ALLOCATION.—Expenditures of moneys from the Fund shall reflect the following priorities in the order stated:

(1) The protection of public health and safety, from extreme danger from the adverse effects of past mineral activities, especially as relates to surface water and groundwater contaminants.

(2) The protection of public health and safety, from the adverse effects of past mineral activities.

(3) The restoration of land, water, and fish and wildlife resources previously degraded by the adverse effects of past mineral activities, which may include restoration activities in river watershed areas.

(c) HABITAT.—Reclamation and restoration activities under this title, particularly those identified under subsection (a)(4), shall include appropriate mitigation measures to provide for the continuation of any established habitat for wildlife in existence prior to the commencement of such activities.

(d) OTHER AFFECTED LANDS.—Where mineral exploration, mining, beneficiation, processing, or reclamation activities have been carried out with respect to any mineral which would be a locatable mineral if the legal and beneficial title to the mineral were in the United States, if such activities directly affect lands managed by the Bureau of Land Management as well as other lands and if the legal and beneficial title to more than 50 percent of the affected lands resides in the United States, the Secretary is authorized, subject to appropriations, to use moneys in the Fund for reclamation and restoration under subsection (a) for all directly affected lands.

(e) RESPONSE OR REMOVAL ACTIONS.—Reclamation and restoration activities under this title which constitute a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), shall be conducted with the concurrence of the Administrator of the Environmental Protection Agency. The Secretary and the Administrator shall enter into a Memorandum of Understanding to establish procedures for consultation, concurrence, training, exchange of technical expertise and joint activities under the appropriate circumstances, that provide assurances that reclamation or restoration activities under this title shall not be conducted in a manner that increases the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and that avoid oversight by multiple agencies to the maximum extent practicable.

**SEC. 204. ELIGIBLE LANDS AND WATERS.**

(a) ELIGIBILITY.—Reclamation expenditures under this title may be made with respect to Federal, State, local, tribal, and private land or water resources that traverse or are contiguous to Federal, State, local, tribal, or private land where such lands or water resources have been affected by past mineral activities, including any of the following:

(1) Lands and water resources which were used for, or affected by, mineral activities and abandoned or left in an inadequate reclamation status before the effective date of this Act.

(2) Lands for which the Secretary makes a determination that there is no continuing reclamation responsibility of a claim holder, operator, or other person who abandoned the site prior to completion of required reclamation under State or other Federal laws.

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The provisions of section 411(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(d)) shall apply to expenditures made from the Fund.

(c) INVENTORY.—

(1) IN GENERAL.—The Secretary shall prepare and maintain a publicly available inventory of abandoned locatable minerals mines on public lands and any abandoned mine on Indian lands that may be eligible for expenditures under this title, and shall deliver a yearly report to the Congress on the progress in cleanup of such sites.

(2) PRIORITY.—In preparing and maintaining the inventory described in paragraph (1), the Secretary shall give priority to abandoned locatable minerals mines in accordance with section 203(b).

(3) PERIODIC UPDATES.—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall update the inventory described in paragraph (1).

**SEC. 205. EXPENDITURES.**

Moneys available from the Fund may be expended for the purposes specified in section 203 directly by the Director of the Office of Surface Mining Reclamation and Enforcement. The Director may also make such money available for such purposes to the Director of the Bureau of Land Management, the Chief of the United States Forest Service, the Director of the National Park Service, or Director of the United States Fish and Wildlife Service, to any other agency of the United States, to an Indian tribe, or to any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program under this title.

**SEC. 206. AVAILABILITY OF AMOUNTS.**

Amounts credited to the Fund shall—

(1) be available, without further appropriation, for obligation and expenditure; and

(2) remain available until expended.

**TITLE III—EFFECTIVE DATE**

**SEC. 301. EFFECTIVE DATE.**

This Act shall take effect on the date of enactment of this Act, except as otherwise provided in this Act.

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By Mrs. FEINSTEIN (for herself, Mr. GREGG, and Ms. SNOWE):

S. 141. A bill to amend title 18, United States Code, to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce legislation to protect one of Americans' most valuable but vulnerable assets: Social Security numbers.

The bill I am introducing today aims to protect individual privacy and prevent identity theft by eliminating the unnecessary use and display of Social Security numbers.

I have been working since the 106th Congress to safeguard Social Security numbers. I believe that the widespread display and use of these numbers poses a significant, and entirely preventable threat to personal privacy.

In 1935, Congress authorized the Social Security Administration to issue Social Security numbers as part of the Social Security program. Since that time, Social Security numbers have become the best-known and easiest way to identify individuals in the United States.

Use of these numbers has expanded well beyond their original purpose. Social Security numbers are now used for everything from credit checks to rental agreements to employment verifications, among other purposes. They can be found in privately held databases and on public records—including marriage licenses, professional certifications, and countless other public documents—many of which are available on the Internet.

Once accessed, the numbers act like keys—allowing thieves to open credit card and bank accounts and even begin applying for government benefits.

According to the Federal Trade Commission, as many as 10 million Americans have their identities stolen by

such thieves each year—at a combined cost of billions of dollars.

What's worse, victims often do not realize that a theft has occurred until much later, when they learn that their credit has been destroyed by unpaid debt on fraudulently opened accounts.

One thief stole a retired Army captain's military identification card and used his Social Security number, listed on the card, to go on a 6-month, $260,000 shopping spree. By the time the Army captain realized what had happened, the thief had opened more than 60 fraudulent accounts.

A single mother of two went to file her taxes and learned that a fraudulent return had already been filed in her name by someone else—a thief who wanted her refund check.

A former pro-football player received a phone call notifying him that a $1 million home mortgage loan had been approved in his name even though he had never applied for such a loan.

Identity theft is serious. Once an individual's identity is stolen, people are often subjected to countless hours and costs attempting to regain their good name and credit. In 2004, victims spent an average of 300 hours recovering from the crime. The crime disrupts lives and can destroy finances.

It also hurts business. A 2006 online survey by the Business Software Alliance and Harris Interactive found that nearly 30 percent of adults decided to shop online less or not at all during the holiday season because of fears about identity theft.

When people's identities are stolen, they often do not know how the thieves obtained their personal information. Social security numbers and other key identifying data are displayed and used in such a widespread manner that individuals could not successfully restrict access themselves.

Comprehensive limitations on the display of Social Security numbers are critically needed.

The U.S. Government Accountability Office conducted studies of this problem in 2002 and 2007. Both times—in studies entitled ''Social Security numbers Are Widely Used by Government and Could Be Better Protected'' and ''Social Security numbers: Use Is Widespread and Could Be Improved''—the GAO concluded that current protections are insufficient and that serious vulnerabilities remain.

The Protecting the Privacy of Social Security Numbers Act would require government agencies and businesses to do more to protect Americans' Social Security numbers. The bill would stop the sale or display of a person's Social Security number without his or her express consent; prevent Federal, State and local governments from displaying Social Security numbers on public records posted on the Internet; prohibit the printing of Social Security numbers on government checks; prohibit the employing of inmates for tasks that give them access to the Social Security numbers of other individuals; limit the circumstances in which businesses could ask a customer for his or her Social Security number; commission a study by the Attorney General regarding the current uses of Social Security numbers and the impact on privacy and data security; and institute criminal and civil penalties for misuse of Social Security numbers.

This legislation is simple. It is also critical to stopping the growing epidemic of identity theft that has been plaguing America and its citizens.

As the President's Identity Theft Task Force reported last year, ''[i]dentity theft depends on access to . . . data. Reducing the opportunities for thieves to get the data is critical to fighting the crime.''

Every agency to study this problem has agreed that the problem will continue to grow over time and that action is needed.

I urge my colleagues to support the Protecting the Privacy of Social Security Numbers Act. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 141

*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 ''Protecting the Privacy of Social Security Numbers Act''.

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



**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of Social Security numbers has contributed to a growing range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used Social Security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a Social Security number in order to pay taxes, to qualify for Social Security benefits, or to seek employment. An unintended consequence of these requirements is that Social Security numbers have become one of the tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Federal Government to take steps to stem the abuse of Social Security numbers.

(4) The display, sale, or purchase of Social Security numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should seek to profit from the display, sale, or purchase of Social Security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this Act provides each individual that has been assigned a Social Security number some degree of protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

**SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.**

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028A the following:

**''§ 1028B. Prohibition of the display, sale, or purchase of Social Security numbers**

''(a) DEFINITIONS.—In this section:

''(1) DISPLAY.—The term 'display' means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual's Social Security number.

''(2) PERSON.—The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(3) PURCHASE.—The term 'purchase' means providing directly or indirectly, anything of value in exchange for a Social Security number.

''(4) SALE.—The term 'sale' means obtaining, directly or indirectly, anything of value in exchange for a Social Security number.

''(5) STATE.—The term 'State' means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

''(b) LIMITATION ON DISPLAY.—Except as provided in section 1028C, no person may display any individual's Social Security number to the general public without the affirmatively expressed consent of the individual.

''(c) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual's Social Security number without the affirmatively expressed consent of the individual.

''(d) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, selling or attempting to sell, or purchasing or attempting to purchase, an individual's Social Security number shall—

''(1) inform the individual of the general purpose for which the number will be used, the types of persons to whom the number may be available, and the scope of transactions permitted by the consent; and

''(2) obtain the affirmatively expressed consent (electronically or in writing) of the individual.

''(e) EXCEPTIONS.—Nothing in this section shall be construed to prohibit or limit the display, sale, or purchase of a Social Security number—

''(1) required, authorized, or excepted under any Federal law;

''(2) for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

''(3) for a national security purpose;

''(4) for a law enforcement purpose, including the investigation of fraud and the enforcement of a child support obligation;

''(5) if the display, sale, or purchase of the number is for a use occurring as a result of an interaction between businesses, governments, or business and government (regardless of which entity initiates the interaction), including, but not limited to—

''(A) the prevention of fraud (including fraud in protecting an employee's right to employment benefits);

''(B) the facilitation of credit checks or the facilitation of background checks of employees, prospective employees, or volunteers;

''(C) the retrieval of other information from other businesses, commercial enterprises, government entities, or private nonprofit organizations; or

''(D) when the transmission of the number is incidental to, and in the course of, the sale, lease, franchising, or merger of all, or a portion of, a business;

''(6) if the transfer of such a number is part of a data matching program involving a Federal, State, or local agency; or

''(7) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program;

except that, nothing in this subsection shall be construed as permitting a professional or commercial user to display or sell a Social Security number to the general public.

''(f) LIMITATION.—Nothing in this section shall prohibit or limit the display, sale, or purchase of Social Security numbers as permitted under title V of the Gramm-Leach-Bliley Act, or for the purpose of affiliate sharing as permitted under the Fair Credit Reporting Act, except that no entity regulated under such Acts may make Social Security numbers available to the general public, as may be determined by the appropriate regulators under such Acts. For purposes of this subsection, the general public shall not include affiliates or unaffiliated third-party business entities as may be defined by the appropriate regulators.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following:

''1028B. Prohibition of the display, sale, or purchase of Social Security numbers.''.

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Attorney General shall conduct a study and prepare a report on all of the uses of Social Security numbers permitted, required, authorized, or excepted under any Federal law. The report shall include a detailed description of the uses allowed as of the date of enactment of this Act, the impact of such uses on privacy and data security, and shall evaluate whether such uses should be continued or discontinued by appropriate legislative action.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall report to Congress findings under this subsection. The report shall include such recommendations for legislation based on criteria the Attorney General determines to be appropriate.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 30 days after the date on which the final regulations promulgated under section 5 are published in the Federal Register.

**SEC. 4. APPLICATION OF PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS TO PUBLIC RECORDS.**

(a) PUBLIC RECORDS EXCEPTION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code (as amended by section 3(a)(1)), is amended by inserting after section 1028B the following:

**''§ 1028C. Display, sale, or purchase of public records containing Social Security numbers**

''(a) DEFINITION.—In this section, the term 'public record' means any governmental record that is made available to the general public.

''(b) IN GENERAL.—Except as provided in subsections (c), (d), and (e), section 1028B shall not apply to a public record.

''(c) PUBLIC RECORDS ON THE INTERNET OR IN AN ELECTRONIC MEDIUM.—

''(1) IN GENERAL.—Section 1028B shall apply to any public record first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity after the date of enactment of this section, except as limited by the Attorney General in accordance with paragraph (2).

''(2) EXCEPTION FOR GOVERNMENT ENTITIES ALREADY PLACING PUBLIC RECORDS ON THE INTERNET OR IN ELECTRONIC FORM.—Not later than 60 days after the date of enactment of this section, the Attorney General shall issue regulations regarding the applicability of section 1028B to any record of a category of public records first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity prior to the date of enactment of this section. The regulations will determine which individual records within categories of records of these government entities, if any, may continue to be posted on the Internet or in electronic form after the effective date of this section. In promulgating these regulations, the Attorney General may include in the regulations a set of procedures for implementing the regulations and shall consider the following:

''(A) The cost and availability of technology available to a governmental entity to redact Social Security numbers from public records first provided in electronic form after the effective date of this section.

''(B) The cost or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments of complying with section 1028B with respect to such records.

''(C) The benefit to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028B should apply to such records.

Nothing in the regulation shall permit a public entity to post a category of public records on the Internet or in electronic form after the effective date of this section if such category had not been placed on the Internet or in electronic form prior to such effective date.

''(d) HARVESTED SOCIAL SECURITY NUMBERS.—Section 1028B shall apply to any public record of a government entity which contains Social Security numbers extracted from other public records for the purpose of displaying or selling such numbers to the general public.

''(e) ATTORNEY GENERAL RULEMAKING ON PAPER RECORDS.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Attorney General shall determine the feasibility and advisability of applying section 1028B to the records listed in paragraph (2) when they appear on paper or on another nonelectronic medium. If the Attorney General deems it appropriate, the Attorney General may issue regulations applying section 1028B to such records.

''(2) LIST OF PAPER AND OTHER NONELECTRONIC RECORDS.—The records listed in this paragraph are as follows:

''(A) Professional or occupational licenses.

''(B) Marriage licenses.

''(C) Birth certificates.

''(D) Death certificates.

''(E) Other short public documents that display a Social Security number in a routine and consistent manner on the face of the document.

''(3) CRITERIA FOR ATTORNEY GENERAL REVIEW.—In determining whether section 1028B should apply to the records listed in paragraph (2), the Attorney General shall consider the following:

''(A) The cost or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments of complying with section 1028B.

''(B) The benefit to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028B should apply to such records.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code (as amended by section 3(a)(2)), is amended by inserting after the item relating to section 1028B the following:

''1028C. Display, sale, or purchase of public records containing Social Security numbers.''.

(b) STUDY AND REPORT ON SOCIAL SECURITY NUMBERS IN PUBLIC RECORDS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study and prepare a report on Social Security numbers in public records. In developing the report, the Comptroller General shall consult with the Administrative Office of the United States Courts, State and local governments that store, maintain, or disseminate public records, and other stakeholders, including members of the private sector who routinely use public records that contain Social Security numbers.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a detailed description of the activities and results of the study and recommendations for such legislative action as the Comptroller General considers appropriate. The report, at a minimum, shall include—

(A) a review of the uses of Social Security numbers in non-federal public records;

(B) a review of the manner in which public records are stored (with separate reviews for both paper records and electronic records);

(C) a review of the advantages or utility of public records that contain Social Security numbers, including the utility for law enforcement, and for the promotion of homeland security;

(D) a review of the disadvantages or drawbacks of public records that contain Social Security numbers, including criminal activity, compromised personal privacy, or threats to homeland security;

(E) the costs and benefits for State and local governments of removing Social Security numbers from public records, including

a review of current technologies and procedures for removing Social Security numbers from public records; and

(F) an assessment of the benefits and costs to businesses, their customers, and the general public of prohibiting the display of Social Security numbers on public records (with separate assessments for both paper records and electronic records).

(c) EFFECTIVE DATE.—The prohibition with respect to electronic versions of new classes of public records under section 1028C(b) of title 18, United States Code (as added by subsection (a)(1)) shall not take effect until the date that is 60 days after the date of enactment of this Act.

**SEC. 5. RULEMAKING AUTHORITY OF THE ATTORNEY GENERAL.**

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 1028B(e)(5) of title 18, United States Code (as added by section 3(a)(1)).

(b) DISPLAY, SALE, OR PURCHASE RULEMAKING WITH RESPECT TO INTERACTIONS BETWEEN BUSINESSES, GOVERNMENTS, OR BUSINESS AND GOVERNMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Social Security, the Chairman of the Federal Trade Commission, and such other heads of Federal agencies as the Attorney General determines appropriate, shall conduct such rulemaking procedures in accordance with subchapter II of chapter 5 of title 5, United States Code, as are necessary to promulgate regulations to implement and clarify the uses occurring as a result of an interaction between businesses, governments, or business and government (regardless of which entity initiates the interaction) permitted under section 1028B(e)(5) of title 18, United States Code (as added by section 3(a)(1)).

(2) FACTORS TO BE CONSIDERED.—In promulgating the regulations required under paragraph (1), the Attorney General shall, at a minimum, consider the following:

(A) The benefit to a particular business, to customers of the business, and to the general public of the display, sale, or purchase of an individual's Social Security number.

(B) The costs that businesses, customers of businesses, and the general public may incur as a result of prohibitions on the display, sale, or purchase of Social Security numbers.

(C) The risk that a particular business practice will promote the use of a Social Security number to commit fraud, deception, or crime.

(D) The presence of adequate safeguards, procedures, and technologies to prevent—

(i) misuse of Social Security numbers by employees within a business; and

(ii) misappropriation of Social Security numbers by the general public, while permitting internal business uses of such numbers.

(E) The presence of procedures to prevent identity thieves, stalkers, and other individuals with ill intent from posing as legitimate businesses to obtain Social Security numbers.

(F) The impact of such uses on privacy.

**SEC. 6. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT DOCUMENTS.**

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:

''(x) No Federal, State, or local agency may display the Social Security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the Social Security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

**SEC. 7. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.**

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

**''SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.**

''(a) IN GENERAL.—A commercial entity may not require an individual to provide the individual's Social Security number when purchasing a commercial good or service or deny an individual the good or service for refusing to provide that number except—

''(1) for any purpose relating to—

''(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act;

''(B) a background check of the individual conducted by a landlord, lessor, employer, voluntary service agency, or other entity as determined by the Attorney General;

''(C) law enforcement; or

''(D) a Federal, State, or local law requirement; or

''(2) if the Social Security number is necessary to verify the identity of the consumer to effect, administer, or enforce the specific transaction requested or authorized by the consumer, or to prevent fraud.

''(b) APPLICATION OF CIVIL MONEY PENALTIES.—A violation of this section shall be deemed to be a violation of section 1129(a)(3)(F).

''(c) APPLICATION OF CRIMINAL PENALTIES.—A violation of this section shall be deemed to be a violation of section 208(a)(8).

''(d) LIMITATION ON CLASS ACTIONS.—No class action alleging a violation of this section shall be maintained under this section by an individual or any private party in Federal or State court.

''(e) STATE ATTORNEY GENERAL ENFORCEMENT.—

''(1) IN GENERAL.—

''(A) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under this section, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

''(i) enjoin that practice;

''(ii) enforce compliance with such section;

''(iii) obtain damages, restitution, or other compensation on behalf of residents of the State; or

''(iv) obtain such other relief as the court may consider appropriate.

''(B) NOTICE.—

''(i) IN GENERAL.—Before filing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General—

''(I) written notice of the action; and

''(II) a copy of the complaint for the action.

''(ii) EXEMPTION.—

''(I) IN GENERAL.—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

''(II) NOTIFICATION.—With respect to an action described in subclause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

''(2) INTERVENTION.—

''(A) IN GENERAL.—On receiving notice under paragraph (1)(B), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

''(B) EFFECT OF INTERVENTION.—If the Attorney General intervenes in the action under paragraph (1), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

''(A) conduct investigations;

''(B) administer oaths or affirmations; or

''(C) compel the attendance of witnesses or the production of documentary and other evidence.

''(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under this section, no State may, during the pendency of that action, institute an action under paragraph (1) against any defendant named in the complaint in that action for violation of that practice.

''(5) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) may be found.

''(f) SUNSET.—This section shall not apply on or after the date that is 6 years after the effective date of this section.''.

(b) EVALUATION AND REPORT.—Not later than the date that is 6 years and 6 months after the date of enactment of this Act, the Attorney General, in consultation with the chairman of the Federal Trade Commission, shall issue a report evaluating the effectiveness and efficiency of section 1150A of the Social Security Act (as added by subsection (a)) and shall make recommendations to

Congress as to any legislative action determined to be necessary or advisable with respect to such section, including a recommendation regarding whether to reauthorize such section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests to provide a Social Security number occurring after the date that is 1 year after the date of enactment of this Act.

**SEC. 8. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.**

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—The first sentence of section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking ''who'' and inserting ''who—'';

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(B) makes such a statement or representation for such use with knowing disregard for the truth; or

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to'';

(C) by inserting ''or each receipt of such benefits while withholding disclosure of such fact'' after ''each such statement or representation'';

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation''; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation''.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—The first sentence of section 1129A(a) of the Social Security Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(2) makes such a statement or representation for such use with knowing disregard for the truth; or

''(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to''.

(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8(a)), as amended by subsection (a)(1), is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesignating the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following:

''(3) Any person (including an organization, agency, or other entity) who—

''(A) uses a Social Security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

''(B) falsely represents a number to be the Social Security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the Social Security account number assigned by the Commissioner to such individual;

''(C) knowingly alters a Social Security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

''(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;

''(E) counterfeits a Social Security card, or possesses a counterfeit Social Security card with intent to display, sell, or purchase it;

''(F) discloses, uses, compels the disclosure of, or knowingly displays, sells, or purchases the Social Security account number of any person in violation of the laws of the United States;

''(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

''(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional Social Security account number or a number which purports to be a Social Security account number; or

''(I) being an officer or employee of a Federal, State, or local agency in possession of any individual's Social Security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (vi)(II) or (x) of section 205(c)(2)(C), shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.''.

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking ''In the case of amounts recovered arising out of a determination relating to title VIII or XVI,'' and inserting ''In the case of any other amounts recovered under this section,''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ''charging fraud or false statements''.

(2) Section 1129(c)(1) of the Social Security Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking ''and representations'' and inserting '', representations, or actions''.

(3) Section 1129(e)(1)(A) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking ''statement or representation referred to in subsection (a) was made'' and inserting ''violation occurred''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations of sections 1129 and 1129A of the Social Security Act (42 U.S.C. 1320–8 and 1320a–8a), as amended by this section, committed after the date of enactment of this Act.

(2) VIOLATIONS BY GOVERNMENT AGENTS IN POSSESSION OF SOCIAL SECURITY NUMBERS.—Section 1129(a)(3)(I) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)(I)), as added by subsection (b), shall apply with respect to violations of that section occurring on or after the effective date described in section 3(c).

(f) REPEAL.—Section 201 of the Social Security Protection Act of 2004 is repealed.

**SEC. 9. CRIMINAL PENALTIES FOR THE MISUSE OF A SOCIAL SECURITY NUMBER.**

(a) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's Social Security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

(b) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following:

''(9) except as provided in subsections (e) and (f) of section 1028B of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in section 1028B(a) of title 18, United States Code) any individual's Social Security account number without having met the prerequisites for consent under section 1028B(d) of title 18, United States Code; or

''(10) obtains any individual's Social Security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;''.

**SEC. 10. CIVIL ACTIONS AND CIVIL PENALTIES.**

(a) CIVIL ACTION IN STATE COURTS.—

(1) IN GENERAL.—Any individual aggrieved by an act of any person in violation of this Act or any amendments made by this Act may, if otherwise permitted by the laws or rules of the court of a State, bring in an appropriate court of that State—

(A) an action to enjoin such violation;

(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater; or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of the regulations prescribed under this Act. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

(2) STATUTE OF LIMITATIONS.—An action may be commenced under this subsection not later than the earlier of—

(A) 5 years after the date on which the alleged violation occurred; or

(B) 3 years after the date on which the alleged violation was or should have been reasonably discovered by the aggrieved individual.

(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedies available to the individual.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who the Attorney General determines has violated any section of this Act or of any amendments made by this Act shall be subject, in addition to any other penalties that may be prescribed by law—

(A) to a civil penalty of not more than $5,000 for each such violation; and

(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the Social Security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the first sentence of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty action under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a–7a) to the Secretary shall be deemed to be a reference to the Attorney General.

**SEC. 11. FEDERAL INJUNCTIVE AUTHORITY.**

In addition to any other enforcement authority conferred under this Act or the amendments made by this Act, the Federal Government shall have injunctive authority with respect to any violation by a public entity of any provision of this Act or of any amendments made by this Act.

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By Mr. KERRY:

S. 142. A bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes; to the Committee on Finance.

MR. KERRY. Mr. President, today I am introducing the Kids Come First Act, legislation to ensure every child in America has access to health care coverage. The Kids Come First Act is the first bill I am introducing in the 111th Congress because I believe that insuring all children must be at the top of the agenda this Congress.

Long-term health care reform is vital, but we must also do all that we can now to make sure our children have access to health care. That is why I have incorporated the Small Business Children's Health Education Act as part of Kids First this Congress.

The 111th Congress faces many challenges, from the economic situation at home to the continuing conflicts in the Middle East. But perhaps no issue bears more directly on the lives of more Americans than health care reform. Today, nearly 46 million Americans are uninsured, including 11 million children. Health care has become a slow-motion disaster that is ruining lives and bankrupting families all over the country. We cannot stand by as the ranks of the uninsured rise and American families find themselves in peril.

Children from low income households are three times as likely to be uninsured and more than 60 percent of uninsured children have at least one parent working full time. As we continue to face uncertain economic times we must do more for the children of this country who lack health coverage. Too many families are struggling with how to make ends meet. This is the time to take one worry off their plate and make health insurance available for all children.

The Kids Come First Act calls for a Federal-State partnership to mandate health coverage to every child in America. The proposal makes states an offer they can't refuse. The Federal Government will pay for the most expensive part: enrolling all low-income children in Medicaid, automatically. In return, the States will pay to expand coverage to higher income children. Under this legislation, States will save more than $6 billion a year, and every child will have access to healthcare.

I think it is unacceptable that in the greatest country in the world, millions of children are denied access to the health care they need. The Kids Come First Act expands health care coverage for children up to the age of 21. Through expanding the programs that work, such as Medicaid and SCHIP, we can cover every uninsured child.

Insuring children improves their health and helps families cover the spiraling costs of medical care. Covering all kids will help reduce avoidable hospitalizations by 22 percent and replace expensive critical care with inexpensive preventative care. Also, when children get the medical attention they need, they do better in school.

To pay for the expansion of health insurance for children, the Kids Come First Act includes a provision that provides the Secretary of Treasury with the authority to raise the highest income tax rate of 35 percent to a rate not higher than 39.6 percent in order to offset the costs. Prior to the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001, the top marginal rate was 39.6 percent. Less than one percent of taxpayers pay the top rate and for 2009, this rate only affects individuals with income above $372,950.

In addition to expanding access to health insurance, we need to improve enrollment of eligible children. In February 2007, the Urban Institute reported that among those eligible for the State Children's Health Insurance Program, children whose families are self-employed or who work for small business concerns are far less likely to be enrolled. Specifically, one out of every four eligible children with parents working for a small business or are self-employed are not currently enrolled. This compares with just 1 out of every 10 eligible children whose parents work for a large firm.

We need to do a better job of informing and educating America's small business owners and employees of the options that may be available for covering uninsured children. To that effect, the Kids Come First Act includes a provision that creates an intergovernmental task force, consisting of the Administrator of the Small Business Administration, the Secretary of Health and Human Services, the Secretary of Labor and the Secretary of Treasury, to conduct a campaign to enroll kids of small business employees who are eligible for SCHIP and Medicaid but are not currently enrolled. To educate America's small businesses on the availability of SCHIP and Medicaid, the task force will make use of the Small Business Administration's business partners, including the Service Corps of Retired Executives, the Small Business Development Centers, Certified Development Companies, and Women's Business Centers, and with chambers of commerce across the country.

Additionally, the Small Business Administration is directed to post SCHIP and Medicaid eligibility criteria and enrollment information on its website, and to report back to the Senate and House Committees on Small Business regarding the status and successes of the task force's efforts to enroll eligible kids.

Health care for our children is a top priority that we must address. I believe it can be done in a fiscally responsible manner. We must invest our resources in our future by improving health care for children.

Since I first introduced the Kids Come First Act in the 109th Congress, more than 500,000 people have shown their support for the bill by becoming Citizen Cosponsors and another 20,000 Americans called into our ''Give Voices to Our Values'' hotline to share their personal stories.

It is clear that providing health care coverage for our uninsured children is a priority for our nation's workers, businesses, and health care community. They know, as I do, that further delay only results in graver health problems for America's children. Their future, and ours, depends on us doing better. I urge my colleagues to support and help enact the Kids Come First Act during this Congress.

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By Mr. KERRY:

S. 143. A bill to amend the Internal Revenue Code of 1986 to provide for a college opportunity tax credit; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the College Opportunity Tax Credit Act of 2009. This legislation creates a new tax credit that

will put the cost of higher education in reach for American families.

According to a recent College Board report tuition is rising at both public and private institutions. On average, the tuition at a private college this year is $25,143, up 5.9 percent from last year, and the tuition at a public college $6,585, up 6.4 percent from last year.

Unfortunately, neither student aid funds nor family incomes are keeping pace with increasing tuition and fees. In my travels around Massachusetts, I frequently hear from parents concerned they will not be able to pay for their children's college. These parents know that earning a college education will result in greater earnings for their children and they desperately want to ensure their kids have the greatest opportunities possible.

In 1997, the Congress implemented two new tax credits to make college affordable—the HOPE and the Lifetime Learning credits. These tax credits have put college in reach for families, but I believe we can do more.

The HOPE and Lifetime Learning credits are not refundable, and therefore a family of four must have an income over $30,000 in order to receive the maximum credit. Almost half of families with college students fail to receive the full credit because their income is too low. In order to receive the full benefit of the Lifetime Learning credit, a student has to spend $10,000 a year on tuition and fees. This is more than $3,000 the average annual public 4-year college tuition more than three times the average annual tuition of a 2-year community college. About 56 percent of college students attend schools with tuition and fees under $9,000.

In 2004, I proposed a refundable tax credit to help pay for the cost of 4 years of college. Currently the HOPE credit applies only to the first 2 years of college. The College Opportunity Tax Credit Act of 2009 helps students and parents afford all four years of college. It also builds on the proposal I made in 2004 by incorporating some of the suggestions made by experts at a Finance Committee hearing held during the 109th Congress. My legislation creates a new credit, the College Opportunity Tax Credit, COTC, that replaces the existing HOPE credit and Lifetime Learning credit and ultimately makes these benefits more generous.

The COTC has two components. The first provides a refundable tax credit for a student enrolled in a degree program at least on a half-time basis. It would provide a 100 percent tax credit for the first $2,000 of eligible expenses and a 50 percent tax credit for the next $4,000 of expenses. The maximum credit would be $4,000 each year per student. The second provides a nonrefundable tax credit for part-time students, graduate students, and other students that do not qualify for the refundable tax credit. It provides a 40 percent credit for the first $1,000 of eligible expenses and a 20 percent credit for the next $3,000 of expenses.

Both of these credits can be used for expenses associated with tuition and fees. The same income limits that apply to the HOPE credit and the Lifetime Learning credit apply to the COTC. These amounts are indexed for inflation, as are the eligible amounts of expenses. This legislation is only for taxable years beginning in 2009 and 2010 in order to make colleges affordable during these difficult financial times. It will also give the Congress additional time to work on a permanent solution to help with the rising cost of a college education.

The College Opportunity Tax Credit Act of 2009 simplifies the existing credits that make higher education more affordable and will enable more students to be eligible for tax relief. I understand that many of my colleagues are interested in making college more affordable. I look forward to working with my colleagues to make a refundable tax credit for college education a reality this Congress.

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By Mr. KERRY (for himself and Mr. ENSIGN):

S. 144. A bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F; to the Committee on Finance.

Mr. KERRY. Mr. President, today Senator ENSIGN and I are reintroducing the MOBILE Cell Phone Act of 2009, Modernize Our Bookkeeping in the Law for Employee's Cell Phone Act of 2009. Last Congress, 60 Senators cosponsored this legislation which would update the tax treatment of cell phones and mobile communication devices.

During the past 20 years, the use of cell phone and mobile communication devices has skyrocketed. Cell phones are no longer viewed as an executive perk or a luxury item. They no longer resemble suitcases or are hardwired to the floor of an automobile. Cell phone and mobile communication devices are now part of daily business practices at all levels.

In 1989, Congress passed a law which added cell phones to the definition of listed property under section 280F(d)(4) of the Internal Revenue Code of 1986. Treating cell phones as listed property requires substantial documentation in order for cell phones to benefit from accelerated depreciation and not be treated as taxable income to the employee. This documentation is required to substantiate that the cell phone is used for business purposes more than 50 percent of the time. Generally, listed property is property that inherently lends itself to personal use, such as automobiles.

Back in 1989, cell phone technology was an expensive technology worthy of detailed log sheets. At that time, it was difficult to envision cell phones that could be placed in a pocket or handbag. Congress was skeptical about the daily business use of cell phones.

Technological advances have revolutionized the cell phone and mobile communication device industries. Twenty years ago, no one could have imagined the role BlackBerries play in our day-to-day communications. Cell phones and mobile communication devices are now widespread throughout all types of businesses. Employers provide their employees with these devices to enable them to remain connected 24 hours a day, 7 days a week. The cost of the devices has been reduced and most providers offer unlimited airtime for one monthly rate.

Recently, the Internal Revenue Service reminded field examiners of the substantiation rules for cell phones as listed property. The current rule requires employers to maintain expensive and detailed logs, and employers caught without cell phone logs could face tax penalties.

The MOBILE Cell Phone Act of 2009 updates the tax treatment of cell phones and mobile communication devices by repealing the requirement that employers maintain detailed logs. The tax code should keep pace with technological advances. There is no longer a reason that cell phones and mobile communication devices should be treated differently than office phones or computers. Last, Congress 60 Senators cosponsored this legislation. I urge my colleagues to support this commonsense change.

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By Mr. KOHL (for himself, Mr. VITTER, Mr. LEAHY, Mr. FEINGOLD, Mr. SCHUMER, Ms. KLOBUCHAR, Mr. DORGAN, and Mr. ROCKEFELLER):

S. 146. A bill to amend the Federal antitrust laws to provide expanded coverage and to eliminate exemptions from such laws that are contrary to the public interest with respect to railroads; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce legislation essential to restoring competition to the nation's crucial freight railroad sector. Freight railroads are essential to shipping a myriad of vital goods, everything from coal used to generate electricity to grain used for basic foodstuffs. But for decades the freight railroads have been insulated from the normal rules of competition followed by almost all other parts of our economy by an outmoded and unwarranted antitrust exemption. So today I am introducing along with my colleagues, Senators VITTER, LEAHY, FEINGOLD, SCHUMER, ROCKEFELLER, DORGAN and KLOBUCHAR, the Railroad Antitrust Enforcement Act of 2009. This legislation will eliminate the obsolete antitrust exemptions that protect freight railroads from competition. This legislation is identical to the legislation that was reported out of the Judiciary Committee in the last Congress without dissent.

Our legislation will eliminate obsolete antitrust exemptions that protect

freight railroads from competition and result in higher prices to millions of consumers every day. Consolidation in the railroad industry in recent years has resulted in only four Class I railroads providing over 90 percent of the nation's freight rail transportation. The lack of competition was documented in an October 2006 Government Accountability Office report. That report found that shippers in many geographic areas ''may be paying excessive rates due to a lack of competition in these markets.'' These unjustified cost increases cause consumers to suffer higher electricity bills because a utility must pay for the high cost of transporting coal, result in higher prices for goods produced by manufacturers who rely on railroads to transport raw materials, and reduce earnings for American farmers who ship their products by rail and raise food prices paid by consumers.

The ill-effects of this consolidation are exemplified in the case of ''captive shippers''—industries served by only one railroad. Over the past several years, these captive shippers have faced spiking rail rates. They are the victims of the monopolistic practices and price gouging by the single railroad that serves them, price increases which they are forced to pass along into the price of their products, and ultimately, to consumers. And in many cases, the ordinary protections of antitrust law are unavailable to these captive shippers—instead, the railroads are protected by a series of outmoded exemptions from the normal rules of antitrust law to which all other industries must abide. In August 2006, the Attorneys General of 17 states and the District of Columbia sent a letter to Congress citing problems due to a lack of competition and asked that the antitrust exemptions be removed.

These unwarranted antitrust exemptions have put the American consumer at risk, and in Wisconsin, victims of a lack of railroad competition abound. A coalition has formed, consisting of about 40 affected organizations—Badger CURE. From Dairyland Power Cooperative in La Crosse to Wolf River Lumber in New London, companies in my state are feeling the crunch of years of railroad consolidation. To help offset a 93 percent increase in shipping rates in 2006, Dairyland Power Cooperative had to raise electricity rates by 20 percent. The reliability, efficiency, and affordability of freight rail have all declined, and Wisconsin consumers feel the pinch.

Similar stories exist across the country. We held a hearing at the Antitrust Subcommittee in September 2007 which detailed numerous instances of anticompetitive conduct by the dominant freight railroads and at which railroad shippers testified as to the need to repeal the outmoded and unwarranted antitrust exemptions which left them without remedies. Dozens of organizations, unions and trade groups—including the American Public Power Association, the American Chemistry Council, American Corn Growers Associations and many more affected by monopolistic railroad conduct endorsed the Railroad Antitrust Enforcement Act in the last Congress.

The current antitrust exemptions protect a wide range of railroad industry conduct from scrutiny by governmental antitrust enforcers. Railroad mergers and acquisitions are exempt from antitrust law and are reviewed solely by the Surface Transportation Board. Railroads that engage in collective ratemaking are also exempt from antitrust law. Railroads subject to the regulation of the Surface Transportation Board are also exempt from private antitrust lawsuits seeking the termination of anticompetitive practices via injunctive relief. Our bill will eliminate these exemptions.

No good reason exists for them. While railroad legislation in recent decades—including most notably the Staggers Rail Act of 1980—deregulated much railroad rate setting from the oversight of the Surface Transportation Board, these obsolete antitrust exemptions remained in place, insulating a consolidating industry from obeying the rules of fair competition. And there is no reason to treat railroads any differently from dozens of other regulated industries in our economy that are fully subject to antitrust law—whether the telecommunications sector regulated by the FCC, or the aviation industry regulation by the Department of Transportation, to name just two examples.

Our bill will bring railroad mergers and acquisitions under the purview of the Clayton Act, allowing the Federal government, state attorneys general and private parties to file suit to enjoin anticompetitive mergers and acquisitions. It will restore the review of these mergers to the agencies where they belong—the Justice Department's Antitrust Division and the Federal Trade Commission. It will eliminate the exemption that prevents FTC's scrutiny of railroad common carriers. It will eliminate the antitrust exemption for railroad collective ratemaking. It will allow state attorneys general and other private parties to sue railroads for treble damages and injunctive relief for violations of the antitrust laws, including collusion that leads to excessive and unreasonable rates. This legislation will force railroads to play by the rules of free competition like all other businesses.

In sum, by clearing out this thicket of outmoded antitrust exemptions, railroads will be subject to the same laws as the rest of the economy. Government antitrust enforcers will finally have the tools to prevent anticompetitive transactions and practices by railroads. Likewise, private parties will be able to utilize the antitrust laws to deter anti-competitive conduct and to seek redress for their injuries.

It is time to put an end to the abusive practices of the Nation's freight railroads. On the Antitrust Subcommittee, we have seen that in industry after industry, vigorous application of our Nation's antitrust laws is the best way to eliminate barriers to competition, to end monopolistic behavior, to keep prices low and quality of service high. The railroad industry is no different. All those who rely on railroads to ship their products—whether it is an electric utility for its coal, a farmer to ship grain, or a factory to acquire its raw materials or ship out its finished product—deserve the full application of the antitrust laws to end the anti-competitive abuses all too prevalent in this industry today. I urge my colleagues support the Railroad Antitrust Enforcement Act of 2009.

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

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

S. 146

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Railroad Antitrust Enforcement Act of 2009''.

**SEC. 2. INJUNCTIONS AGAINST RAILROAD COMMON CARRIERS.**

The proviso in section 16 of the Clayton Act (15 U.S.C. 26) ending with ''Code.'' is amended to read as follows: ''*Provided*, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit for injunctive relief against any common carrier that is not a railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code.''.

**SEC. 3. MERGERS AND ACQUISITIONS OF RAILROADS.**

The sixth undesignated paragraph of section 7 of the Clayton Act (15 U.S.C. 18) is amended to read as follows:

''Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Secretary of Transportation, Federal Power Commission, Surface Transportation Board (except for transactions described in section 11321 of that title), the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 (of the Public Utility Holding Company Act of 1935), the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in the Commission, Board, or Secretary.''.

**SEC. 4. LIMITATION OF PRIMARY JURISDICTION.**

The Clayton Act is amended by adding at the end thereof the following:

''SEC. 29. In any civil action against a common carrier railroad under section 4, 4C, 15, or 16 of this Act, the district court shall not be required to defer to the primary jurisdiction of the Surface Transportation Board.''.

**SEC. 5. FEDERAL TRADE COMMISSION ENFORCEMENT.**

(a) CLAYTON ACT.—Section 11(a) of the Clayton Act (15 U.S.C. 21(a)) is amended by striking ''subject to jurisdiction'' and all that follows through the first semicolon and inserting ''subject to jurisdiction under subtitle IV of title 49, United States Code (except for agreements described in section 10706 of that title and transactions described in section 11321 of that title);''.

(b) FTC ACT.—Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by striking ''common carriers subject'' and inserting ''common carriers, except for railroads, subject''.

**SEC. 6. EXPANSION OF TREBLE DAMAGES TO RAIL COMMON CARRIERS.**

Section 4 of the Clayton Act (15 U.S.C. 15) is amended by—

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

(2) inserting after subsection (a) the following:

''(b) Subsection (a) shall apply to a common carrier by railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code, without regard to whether such railroads have filed rates or whether a complaint challenging a rate has been filed.''.

**SEC. 7. TERMINATION OF EXEMPTIONS IN TITLE 49.**

(a) IN GENERAL.—Section 10706 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking '', and the Sherman Act (15 U.S.C. 1 et seq.),'' and all that follows through ''or carrying out the agreement'' in the third sentence;

(B) in paragraph (4)—

(i) by striking the second sentence; and

(ii) by striking ''However, the'' in the third sentence and inserting ''The''; and

(C) in paragraph (5)(A), by striking '', and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement''; and

(2) by striking subsection (e) and inserting the following:

''(e) APPLICATION OF ANTITRUST LAWS.—

''(1) IN GENERAL.—Nothing in this section exempts a proposed agreement described in subsection (a) from the application of the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 14 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), section 73 or 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), or the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a).

''(2) ANTITRUST ANALYSIS TO CONSIDER IMPACT.—In reviewing any such proposed agreement for the purpose of any provision of law described in paragraph (1), the Board shall take into account, among any other considerations, the impact of the proposed agreement on shippers, on consumers, and on affected communities.''.

(b) COMBINATIONS.—Section 11321 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''The authority'' in the first sentence and inserting ''Except as provided in sections 4 (15 U.S.C. 15), 4C (15 U.S.C. 15c), section 15 (15 U.S.C. 25), and section 16 (15 U.S.C. 26) of the Clayton Act (15 U.S.C. 21(a)), the authority''; and

(B) by striking ''is exempt from the antitrust laws and from all other law,'' in the third sentence and inserting ''is exempt from all other law (except the antitrust laws referred to in subsection (c)),''; and

(2) by adding at the end the following:

''(c) APPLICATION OF ANTITRUST LAWS.—

''(1) IN GENERAL.—Nothing in this section exempts a transaction described in subsection (a) from the application of the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 14 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), section 73 or 74 of the Wilson Tariff Act (15 U.S.C. 8–9), or the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a). The preceding sentence shall not apply to any transaction relating to the pooling of railroad cars approved by the Surface Transportation Board or its predecessor agency pursuant to section 11322 of title 49, United States Code.

''(2) ANTITRUST ANALYSIS TO CONSIDER IMPACT.—In reviewing any such transaction for the purpose of any provision of law described in paragraph (1), the Board shall take into account, among any other considerations, the impact of the transaction on shippers and on affected communities.''.

(c) CONFORMING AMENDMENTS.—

(1) The heading for section 10706 of title 49, United States Code, is amended to read as follows: ''**Rate agreements**''.

(2) The item relating to such section in the chapter analysis at the beginning of chapter 107 of such title is amended to read as follows:

''10706. Rate agreements.''.

**SEC. 8. EFFECTIVE DATE.**

(a) IN GENERAL.—Subject to the provisions of subsection (b), this Act shall take effect on the date of enactment of this Act.

(b) CONDITIONS.—

(1) PREVIOUS CONDUCT.—A civil action under section 4, 15, or 16 of the Clayton Act (15 U.S.C. 15, 25, 26) or complaint under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) may not be filed with respect to any conduct or activity that occurred prior to the date of enactment of this Act that was previously exempted from the antitrust laws as defined in section 1 of the Clayton Act (15 U.S.C. 12) by orders of the Interstate Commerce Commission or the Surface Transportation Board issued pursuant to law.

(2) GRACE PERIOD.—A civil action or complaint described in paragraph (1) may not be filed earlier than 180 days after the date of enactment of this Act with respect to any previously exempted conduct or activity or previously exempted agreement that is continued subsequent to the date of enactment of this Act.

Mr. FEINGOLD. Mr. President, I would like to thank the senior Senator from Wisconsin for his hard work to address antitrust issues in the rail industry along with other industries as Chairman of the Antitrust, Competition Policy and Consumer Rights Subcommittee of the Judiciary Committee. I have been pleased to support his efforts to bring antitrust scrutiny to the large freight railroads since he first introduced a version of this legislation in 2006. As Senator KOHL well knows, this is a vitally important issue for rail customers and ultimately consumers both in Wisconsin and across the country.

Over the past several years, I have heard more and more comments and concerns from freight rail customers at my town hall meetings in Wisconsin and my meetings in Washington. The concerns have come from constituents who rely on freight railroads to transport their goods or receive raw materials. The comments I have heard have been diverse by industry, ranging from forestry, energy, farming, and petrochemical companies to various manufacturers, and by size, from family owned enterprises to large corporations. The problems they have described do not seem to be isolated incidents, but instead suggest a systematic continuing problem.

There are several general concerns that seem to apply no matter which class of railroad is discussed. While outright refusals of transport may be rare, several of my constituents have found it difficult to get timely estimates of costs for carriage for their cargo. This seems to especially be a problem for short distances or small loads, or if the cargo is only on the originating railroads' tracks for a short distance. Many have said that they feel like second-class citizens, denied the better service and dedicated trains that the long-haul receive.

I have also heard about problems with changes to transportation schedules, and problems with rail car delivery and ancillary services such as scales. Many rail customers seem to feel that as railroads continued to merge over the past two decades, service, especially for small customers, has declined dramatically. Again, this seems to especially affect small railroad customers who are dependant on rail transport, but face difficulty in receiving cars to fill, moving filled cars in a timely manner or weighing their loads.

Of course cost is also an issue, but it is not just the cost of transportation. Some rail customers feel that the Surface Transportation Board, STB, complaint process is too costly, slow and tilted in favor of the railroads over the customers. They contend that these hurdles to exposing anticompetitive practices have the effect of perpetuating the unfair treatment and excessive rates they experience.

Senator KOHL's proposal would remove the current railroad antitrust exemptions so that railroads would be covered like other segments of industry. The Department of Justice and the Federal Trade Commission would then have the authority to review mergers and block anti-competitive mergers. The legislation would also expand the ability of State Attorneys General and private parties to halt anti-competitive behavior and seek up to treble damages for any such violations.

I believe this is a very reasonable and measured proposal as evidenced by the bill being passed out of the Judiciary Committee in the previous Congress by voice vote. I look forward to supporting Senator KOHL's efforts to move the legislation through committee again and push for its passage into law during the current Congress.

While I hope that providing the Department of Justice the authority to review possible antitrust violations as proposed in the current bill will improve the situation for many shippers, it may have to go hand-in-hand with reforms at the STB as were contemplated in the previous Congress by Senator ROCKEFELLER's Railroad Competition and Service Improvements Act of 2007.

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By Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. WYDEN, and Mr. WHITEHOUSE):

S. 147. A bill to require the closure of the detention facility at Guantanamo Bay, Cuba, to limit the use of certain interrogation techniques, to prohibit interrogation by contractors, to require notification of the International

Committee of the Red Cross of detainees, and for other purposes; to the Select Committee on Intelligence.

Mrs. FEINSTEIN. Today, I am introducing the Lawful Interrogation and Detention Act of 2009—legislation intended to reverse the harmful, dangerous, un-American, and illegal detention and interrogation practices of the past seven years.

As I will describe in detail below, the four provisions in this bill would: Close the Guantanamo Bay detention centers, outlaw CIA's coercive interrogation program, prevent the use of contractor interrogations, and end secret detention at CIA black sites.

These practices have brought shame to our nation, have harmed our ability to fight the war on terror, and, I believe, violate U.S. law and international treaty obligations.

As was made crystal clear on last November 4, we need change and we need a new direction. When it comes to the war on terrorism, we need to disavow ''the Dark Side'' so embraced by the Bush administration. Instead, we need to follow our approach honed through the Cold War: standing by the strength of our values and ideals, building strong partnerships with allies, and mixing soft power with the force of our military might.

This legislation would put us back on the right track and I believe it to be fully consistent with the policies and intentions of President-elect Obama.

It is time to end the failed experiment at Guantanamo Bay. It is time to repudiate torture and secret disappearances. It is time to end the outsourcing of coercive interrogations to outside mercenaries. It is time to return to the norms and values that have driven the United States to greatness since the days of George Washington, but have been tarnished in the past 7 years.

First, this legislation requires the President to close the detention facilities at Guantanamo Bay within 12 months.

The need to close Guantanamo is clear. Along with the abuses at Abu Ghraib, Guantanamo has been decried as American hypocrisy and cruelty throughout the world. They have given aid in recruiting to our enemies, and have been named by Navy General Counsel Alberto Mora as the leading causes of death to U.S. troops in Iraq.

Numerous reports, most recently one completed and approved unanimously by the Senate Armed Services Committee, have documented the abusive methods used at Guantanamo.

Beyond the physical, psychological, and emotional abuse witnessed at Guantanamo, it has been the source of great legal embarrassment. The Supreme Court has struck down the Bush administration's legal reasoning four separate times: in the Rasul, Hamdi, Hamdan, and Boumediene decisions.

It was explicitly created to be a separate and lesser system of justice, to hold people captured on or near the battlefield in Afghanistan indefinitely. It has produced exactly three convictions, including Australian David Hicks who agreed to a plea bargain to get off the island, and Osama bin Ladin's driver, Salim Hamdan, who has already served almost all of his sentence through time already spent at Guantanamo.

The hard part about closing Guantanamo is not deciding to do it—it is figuring out what to do with the remaining detainees.

Under the Lawful Interrogation and Detention Act, the approximately 250 individuals now being held there would be handled in one of five ways:

They could be charged with a crime and tried in the United States in the Federal civilian or military justice systems. These systems have handled terrorists and other dangerous individuals before, and are capable of dealing with classified evidence and other unusual factors.

Individuals could be transferred to an international tribunal to hold hearings, if such a tribunal is created; detainees could be returned to their native countries, or if that is not possible, they could be transferred to a third country.

To date, more than 500 men have been sent from Guantanamo to the custody other countries. Recently, Portugal and other nations have suggested they would be open to taking some of the remaining detainees as a way to help close Guantanamo.

If there are detainees who can't be charged with crimes or transferred to the custody of another country, there is a fourth option. If the Secretary of Defense and the Director of National Intelligence agree that an individual poses no security threat to the United States, the U.S. Government may release him.

This may work, for example, for the Chinese Uighurs remaining at Guantanamo. In fact, a Federal court has already ordered that this group be released into the country, though that ruling has been stayed upon appeal.

Finally, for detainees who cannot be addressed in any of the first four options, the Executive Branch could hold them under the existing authorities provided by the law of armed conflict.

I believe that these options provide sufficient flexibility to handle the 250 or so people now being held at Guantanamo. If the incoming Obama Administration decides that other alternatives are needed, it should come to Congress, explain the specifics of the problem, and we will work toward a joint legislative solution.

The other three provisions in this legislation end parts of the CIA's secret detention and interrogation program.

Some of the details of the program are already publicly known, like the use of waterboarding on three individuals. Other aspects remain secret, such as the other authorized interrogation techniques and how they were used.

There have been public allegations of multiple deaths of detainees in CIA custody. There was one conviction of a CIA contractor in the death of a detainee in Afghanistan, but other details remain classified.

But it is well known that on August 1, 2002, the Justice Department approved coercive interrogation techniques, including waterboarding, for the CIA's use. This despite the fact that the Justice Department has prosecuted the use of waterboarding and the State Department has decried it overseas.

The Administration used warped logic and faulty reasoning to say waterboarding technique was not torture. It is.

Other interrogation techniques used by the CIA have not been acknowledged but are still authorized for use. This has to end.

But we will never turn this sad page in our nation's history until all coercive techniques are banned, and are replaced with a single, clear, uniform standard across the United States Government.

That standard established by this legislation is the interrogation protocols set out in the Army Field Manual. The 19 specified techniques work for the military and operate under the same framework as the time-honored approach of the Federal Bureau of Investigation. If the CIA would abide by its terms, it would work for the CIA as well.

These techniques were at the heart of former FBI Special Agent Jack Cloonan's successful interrogation of those responsible for the 1993 World Trade Center bombing. They were also the tools used by Special Agent George Piro to get Saddam Hussein to provide the evidence that resulted in his death sentence.

We have powerful expert testimony that the Army Field Manual techniques work against terrorist suspects. The Manual's use across the government is supported by scores of retired generals and admirals, by General David Petraeus, and by former secretaries of state and national security advisors in both parties.

Majorities in both houses of Congress passed this provision last year as part of the Fiscal Year 2008 Intelligence Authorization bill, sending a clear message that we do not support coercive interrogations.

Regrettably, the President's veto stopped it from becoming law.

The new President agrees that we need to end coercive interrogations and to comply strictly to the terms of the Convention Against Torture and the Geneva Conventions. I look forward to working with him to end this sad story in the Nation's history.

The third part of this legislation is a ban on contractor interrogators at the CIA. As General Hayden has testified, the CIA hires and keeps on contract people who are not intelligence professionals and whose sole job is to ''break'' detainees and get them to talk.

I firmly believe that outsourcing interrogations, whether coercive or more appropriate ones, to private companies is a way to diminish accountability and to avoid getting the Agency's hands dirty. I also believe that the use of contractors leads to more brutal interrogations than if they were done by government employees.

There are surely areas where paying contractors makes practical and financial sense. Interrogations—a form of collecting intelligence—is not one of them. This has become a major diplomatic issue, a key obstacle in prosecuting people like Abu Zubaydah and Khalid Shaykh Mohammed, and a national black eye. It is not the sort of thing to be done at arm's length.

The fourth and final provision in this legislation requires that the CIA and other intelligence agencies provide notification to the International Committee of the Red Cross—the ICRC—of their detainees. Following notification, the CIA will be required to provide ICRC officials with access to their detainees in the same way that the military does.

Access by the ICRC is a hallmark of international law and is required by the Geneva Conventions. Access to a third party, and the ICRC in particular, was seen by the U.S. in 1947 as a guarantee that American men and women would be protected if they were ever captured overseas.

But ICRC access has been denied at CIA black sites, just like it had been in some military-run facilities in the war on terror. This has, in part, opened the door to the abuses in detainee treatment. Independent access prevents abuses like we witnessed at Abu Ghraib and Guantanamo Bay. It is time that the same protection is in place for the CIA as has been demanded of the Department of Defense.

We remain a nation at war, and credible, actionable intelligence remains a cornerstone of our war effort. But this is a war that will be won by fighting smarter, not by sinking to the depths of our enemies.

Our Nation has paid an enormous price because of these interrogations.

They cast shadow and doubt over our ideals and our system of justice.

Our enemies have used our practices to recruit more extremists.

Our key global partnerships, crucial to winning the war on terror, have been strained.

It will take time to resume our place as the world's beacon of liberty and justice. This bill will put us on that path and start the process. I urge its passage.

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

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

S. 147

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Lawful Interrogation and Detention Act''.

**SEC. 2. INTELLIGENCE COMMUNITY DEFINED.**

In this Act, the term ''intelligence community'' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

**SEC. 3. CLOSURE OF DETENTION FACILITY AT GUANTANAMO BAY.**

(a) REQUIREMENT TO CLOSE.—Not later than 1 year after the date of the enactment of this Act, the President shall close the detention facility at Guantanamo Bay, Cuba operated by the Secretary of Defense and remove all detainees from such facility.

(b) DETAINEES.—Prior to the date that the President closes the detention facility at Guantanamo Bay, Cuba, as required by subsection (a), each individual detained at such facility shall be treated exclusively through one of the following:

(1) The individual shall be charged with a violation of United States or international law and transferred to a military or Federal civilian detention facility in the United States for further legal proceedings, provided that such a Federal civilian facility or military facility has received the highest security rating available for such a facility.

(2) The individual shall be transferred to an international tribunal operating under the authority of the United Nations that has jurisdiction to hold a trial of such individual.

(3) The individual shall be transferred to the custody of the government of the individual's country of citizenship or a different country, provided that such transfer is consistent with—

(A) the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984;

(B) all relevant United States law; and

(C) any other international obligation of the United States.

(4) If the Secretary of Defense and Director of National Intelligence determine, jointly, that the individual poses no security threat to the United States and actions cannot be taken under paragraph (1) or (3), the individual shall be released from further detention.

(5) The individual shall be held in accordance with the law of armed conflict.

(c) REPORTING REQUIREMENTS.—

(1) REQUIREMENT FOR REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report that describes the President's plan to implement this section.

(2) REQUIREMENT TO UPDATE.—The President shall keep Congress fully and currently informed of the steps taken to implement this section.

(d) CONSTRUCTION.—

(1) IMMIGRATION STATUS.—The transfer of an individual under subsection (b) shall not be considered an entry into the United States for purposes of immigration status.

(2) NO ADDITIONAL DETENTION AUTHORITY.—Nothing in this section may be construed as altering or adding to existing authorities for, or restrictions on, the detention, treatment, or transfer of individuals in United States custody.

**SEC. 4. LIMITATION ON INTERROGATION TECHNIQUES.**

No individual in the custody or under the effective control of personnel of an element of the intelligence community or a contractor or subcontractor of an element of the intelligence community, regardless of nationality or physical location of such individual or personnel, shall be subject to any treatment or technique of interrogation not authorized by the United States Army Field Manual on Human Intelligence Collector Operations.

**SEC. 5. PROHIBITION ON INTERROGATIONS BY CONTRACTORS.**

The Director of the Central Intelligence Agency shall not allow a contractor or subcontractor to the Central Intelligence Agency to carry out an interrogation of an individual. Any interrogation carried out on behalf of the Central Intelligence Agency shall be conducted by an employee of such Agency.

**SEC. 6. NOTIFICATION OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS.**

(a) REQUIREMENT.—The head of an element of the intelligence community or a contractor or subcontractor of such element who detains or has custody or effective control of an individual shall notify the International Committee of the Red Cross of the detention of the individual and provide access to such individual in a manner consistent with the practices of the Armed Forces.

(b) CONSTRUCTION.—Nothing in this section shall be construed—

(1) to create or otherwise imply the authority to detain; or

(2) to limit or otherwise affect any other rights or obligations which may arise under the Geneva Conventions, other international agreements, or other laws, or to state all of the situations under which notification to and access for the International Committee of the Red Cross is required or allowed.

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By Mr. KOHL:

S. 148. A bill to restore the rule that agreements between manufacturers and retailers, distributors, or wholesalers to set the minimum price below which the manufacturer's product or service cannot be sold violates the Sherman Act; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce legislation essential to consumers receiving the best prices on every product from electronics to clothing to groceries. My bill, the Discount Pricing Consumer Protection Act, will restore the nearly century old rule that it is illegal under antitrust law for a manufacturer to set a minimum price below which a retailer cannot sell the manufacturer's product, a practice known as ''resale price maintenance'' or ''vertical price fixing''. In June 2007, overturning a 96-year-old precedent, a narrow 5–4 Supreme Court majority in the Leegin case incorrectly interpreted the Sherman Act to overturn this basic rule of the marketplace which has served consumers well for nearly a century. My bill—identical to legislation I introduced in 2007 (S. 2261 in the 110th Congress)—will correct this misinterpretation of antitrust law and restore the per se ban on vertical price fixing. Our bill has been endorsed by 34 state attorneys general as well as numerous antitrust experts, including former FTC Chairman Pitofsky and current FTC Commissioner Harbour.

The reasons for this legislation are compelling. Allowing manufacturers to set minimum retail prices will threaten the very existence of discounting and discount stores, and lead to higher prices for consumers. For nearly a century the rule against vertical price fixing permitted discounters to sell goods

at the most competitive price. Many credit this rule with the rise of today's low price, discount retail giants—stores like Target, Best Buy, Walmart, and the Internet sites Amazon and EBay, which offer consumers a wide array of highly desired products at discount prices.

From my own personal experience in business I know of the dangers of permitting vertical price fixing. My family started the Kohl's department stores in 1962, and I worked there for many years before we sold the stores in the 1980s. On several occasions, we lost lines of merchandise because we tried to sell at prices lower than what the manufacturer and our rival retailers wanted. For example, when we started Kohl's and were just a small competitor to the established retail giants, we had serious difficulties obtaining the leading brand name jeans. The traditional department stores demanded that the manufacturer not sell to us unless we would agree to maintain a certain minimum price. Because they didn't want to lose the business of their biggest customers, that jeans manufacturer acquiesced in the demands of the department stores—at least until our lawyers told them that they were violating the rule against vertical price fixing.

So I know firsthand the dangers to competition and discounting of permitting the practice of vertical price fixing. But we don't need to rely on my own experience. For nearly 40 years until 1975 when Congress passed the Consumer Goods Pricing Act, Federal law permitted States to enact so-called ''fair trade'' laws legalizing vertical price fixing. Studies Department of Justice conducted in the late 1960s indicated that prices were between 18–27 percent higher in the States that allowed vertical price fixing than the States that had not passed such ''fair trade'' laws, costing consumers at least $ 2.1 billion per year at that time.

Given the tremendous economic growth in the intervening decades, the likely harm to consumers if vertical price fixing were permitted is even grater today. In his dissenting opinion in the Leegin case, Justice Breyer estimated that if only 10 percent of manufacturers engaged in vertical price fixing, the volume of commerce affected today would be $ 300 billion, translating into retail bills that would average $ 750 to $ 1,000 higher for the average family of four every year.

And the experience of the last year and a half since the Leegin decision is beginning to confirm our fears regarding the dangers from permitting vertical price fixing. In December 2008, for example, Sony announced that it would implement a no-discount rule to retailer's selling some of its most in-demand products, including some models of high-end flat screen TVs and digital cameras. On December 4, 2008, the Wall Street Journal reported that a new business has materialized for companies that scour the Internet in search of retailers selling products at a bargain. When such bargain sellers are detected, the manufacturer is alerted so that they can demand the seller end the discounting of its product. The chilling effect on discounting of such tactics is clear—in one example, the Wall Street Journal reported that Circuit City was forced to raise its retail price for an LG flat screen TV by $ 170 to nearly $ 1,600 after its discount price was discovered on the Internet.

Defenders of the Leegin decision argue that today's giant retailers such as Walmart, Best Buy or Target can ''take care of themselves'' and have sufficient market power to fight manufacturer efforts to impose retail prices. Whatever the merits of that argument, I am particularly worried about the effect of this new rule permitting minimum vertical price fixing on the next generation of discount retailers. If new discount retailers can be prevented from selling products at a discount at the behest of an established retailer worried about the competition, we will imperil an essential element of retail competition so beneficial to consumers.

In overturning the per se ban on vertical price fixing, the Supreme Court in Leegin announced this practice should instead be evaluated under what is known as the ''rule of reason.'' Under the rule of reason, a business practice is illegal only if it imposes an ''unreasonable'' restraint on competition. The burden is on the party challenging the practice to prove in court that the anti-competitive effects of the practice outweigh its justifications. In the words of the Supreme Court, the party challenging the practice must establish the restraint's ''history, nature and effect.'' Whether the businesses involved possess market power ''is a further, significant consideration'' under the rule of reason.

In short, establishing that any specific example of vertical price fixing violates the rule of reason is an onerous and difficult burden for a plaintiff in an antitrust case. Parties complaining about vertical price fixing are likely to be small discount stores with limited resources to engage in lengthy and complicated antitrust litigation. These plaintiffs are unlikely to possess the facts necessary to make the extensive showing necessary to prove a case under the ''rule of reason.'' In the words of FTC Commissioner Pamela Jones Harbour, applying the rule of reason to vertical price fixing ''is a virtual euphemism for per se legality.''

In July 2007, our Antitrust Subcommittee conducted an extensive hearing into the Leegin decision and the likely effects of abolishing the ban on vertical price fixing. Both former FTC Chairman Robert Pitofsky and current FTC Commissioner Harbour strongly endorsed restoring the ban on vertical price fixing. Marcy Syms, CEO of the Syms discount clothing stores, did so as well, citing the likely dangers to the ability of discounters such as Syms to survive after abolition of the rule against vertical price fixing. Ms. Syms also stated that ''it would be very unlikely for her to bring an antitrust suit'' challenging vertical price fixing under the rule of reason because her company ''would not have the resources, knowledge or a strong enough position in the marketplace to make such action prudent.'' Our examination of this issue has produced compelling evidence for the continued necessity of a ban on vertical price fixing to protect discounting and low prices for consumers.

The Discount Pricing Consumer Protection Act will accomplish this goal. My legislation is quite simple and direct. It would simply add one sentence to Section 1 of the Sherman Act—the basic provision addressing combinations in restraint of trade—a statement that any agreement with a retailer, wholesaler or distributor setting a price below which a product or service cannot be sold violates the law. No balancing or protracted legal proceedings will be necessary. Should a manufacturer enter into such an agreement it will unquestionably violate antitrust law. The uncertainty and legal impediments to antitrust enforcement of vertical price fixing will be replaced by simple and clear legal rule—a legal rule that will promote low prices and discount competition to the benefit of consumers every day.

In the last few decades, millions of consumers have benefited from an explosion of retail competition from new large discounters in virtually every product, from clothing to electronics to groceries, in both ''big box'' stores and on the Internet. Our legislation will correct the Supreme Court's abrupt change to antitrust law, and will ensure that today's vibrant competitive retail marketplace and the savings gained by American consumers from discounting will not be jeopardized by the abolition of the ban on vertical price fixing. I urge my colleagues to support this bill.

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

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

S. 148

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Discount Pricing Consumer Protection Act''.

**SEC. 2. STATEMENT OF FINDINGS AND DECLARATION OF PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) From 1911 in the *Dr. Miles* decision until June 2007 in the *Leegin* decision, the Supreme Court had ruled that the Sherman Act forbid in all circumstances the practice of a manufacturer setting a minimum price below which any retailer, wholesaler or distributor could not sell the manufacturer's product (the practice of ''resale price maintenance'' or ''vertical price fixing'').

(2) The rule of per se illegality forbidding resale price maintenance promoted price competition and the practice of discounting all to the substantial benefit of consumers and the health of the economy.

(3) Many economic studies showed that the rule against resale price maintenance led to lower prices and promoted consumer welfare.

(4) Abandoning the rule against resale price maintenance will likely lead to higher prices paid by consumers and substantially harms the ability of discount retail stores to compete. For 40 years prior to 1975, Federal law permitted states to enact so-called ''fair trade'' laws allowing vertical price fixing. Studies conducted by the Department of Justice in the late 1960s indicated that retail prices were between 18 and 27 percent higher in states that allowed vertical price fixing than those that did not. Likewise, a 1983 study by the Bureau of Economics of the Federal Trade Commission found that, in most cases, resale price maintenance increased the prices of products sold.

(5) The 5–4 decision of the Supreme Court majority in *Leegin* incorrectly interpreted the Sherman Act and improperly disregarded 96 years of antitrust law precedent in overturning the per se rule against resale price maintenance.

(b) PURPOSES.—The purposes of this Act are—

(1) to correct the Supreme Court's mistaken interpretation of the Sherman Act in the *Leegin* decision; and

(2) to restore the rule that agreements between manufacturers and retailers, distributors or wholesalers to set the minimum price below which the manufacturer's product or service cannot be sold violates the Sherman Act.

**SEC. 3. PROHIBITION ON VERTICAL PRICE FIXING.**

(a) AMENDMENT TO THE SHERMAN ACT.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by adding after the first sentence the following: ''Any contract, combination, conspiracy or agreement setting a minimum price below which a product or service cannot be sold by a retailer, wholesaler, or distributor shall violate this Act.''.

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

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By Mr. KOHL:

S. 149. A bill to change the date for regularly scheduled Federal elections and establish polling place hours; to the Committee on Rules and Administration.

Mr. KOHL. Mr. President, today I rise to introduce the Weekend Voting Act. This legislation will change the day for Congressional and Presidential elections from the first Tuesday in November to the first weekend in November. This legislation is nearly identical to legislation that I first proposed in 1997.

We have recently completed the most serious business of our democracy—a Presidential election in which millions and millions of citizens demonstrated an enormous amount of enthusiasm. We all want every eligible voter to participate and cast a vote. But recent experience has shown us that unneeded obstacles are placed preventing citizens from exercising their franchise. The debacle of defective ballots and voting methods in Florida in the 2000 election galvanized Congress into passing major election reform legislation. The Help America Vote Act, which was enacted into law in 2002, was an important step forward in establishing minimum standards for States in the administration of Federal elections and in providing funds to replace outdated voting systems and improve election administration. However, there is much that still needs to be done.

With more and more voters seeking to cast their ballots on Election Day, we need to build on the movement which already exists to make it easier for Americans to cast their ballots by providing alternatives to voting on just one election day. Twenty-eight States, including my own State of Wisconsin, now permit any registered voter to vote by absentee ballot. These states constitute nearly half of the voting age citizens of the United States. Thirty-one States permit in-person early voting at election offices or at other satellite locations. The State of Oregon now conducts statewide elections completely by mail. These innovations are critical if we are to conduct fair elections for it has become unreasonable to expect that a Nation of 300 million people can line up at the same time and cast their ballots at the same time. If we continue to try to do so, we will encounter even more reports of broken machines and long lines in the rain and registration errors that create barriers to voting.

That is why I have been a long-time advocate of moving our Federal election day from the first Tuesday after the first Monday in November to the first weekend in November. Holding our Federal elections on a weekend will create more opportunities for voters to cast their ballots and will help end the gridlock at the polling places which threaten to undermine our elections.

Under this bill, polls would be open nationwide for a uniform period of time from 10 a.m. Saturday eastern time to 6 p.m. Sunday eastern time. Polls in all time zones would in the 48 contiguous states also open and close at this time. Election officials would be permitted to close polls during the overnight hours if they determine it would be inefficient to keep them open. Because the polls would be open on both Saturday and Sunday, they also would not interfere with religious observances.

Keeping polls open the same hours across the continental United States, also addresses the challenge of keeping results on one side of the country, or even a state, from influencing voting in places where polls are still open. Moving elections to the weekend will expand the pool of buildings available for polling stations and people available to work at the polls, addressing the critical shortage of poll workers.

Most important, weekend voting has the potential to increase voter turnout by giving all voters ample opportunity to get to the polls without creating a national holiday. There is already evidence that holding elections on a non-working day can increase voter turnout. In one survey of 44 democracies, 29 held elections on holidays or weekends and in all these cases voter turnout surpassed our country's voter participation rates.

In 2001, the National Commission on Federal Election Reform recommended that we move our Federal election day to a national holiday, in particular Veterans Day. As expected, the proposal was not well received among veterans and I do not endorse such a move, but I share the Commission's goal of moving election day to a non-working day.

Since the mid 19th century, election day has been on the first Tuesday of November. Ironically, this date was selected because it was convenient for voters. Tuesdays were traditionally court day, and land owning voters were often coming to town anyway.

Just as the original selection of our national voting day was done for voter convenience, we must adapt to the changes in our society to make voting easier for the regular family. We have outgrown our Tuesday voting day tradition, a tradition better left behind to a bygone horse and buggy era. In today's America, 60 percent of all households have two working adults. Since most polls in the United States are open only 12 hours on a Tuesday, generally from 7 a.m. to 7 or 8 p.m., voters often have only one or two hours to vote. As we've seen in recent elections, long lines in many polling places have kept some voters waiting much longer than one or two hours. If voters have children, and are dropping them off at day care, or if they have a long work commute, there is just not enough time in a workday to vote.

With long lines and chaotic polling places becoming the unacceptable norm in many communities, we have an obligation to reform how our Nation votes. If we are to grant all Americans an equal opportunity to participate in the electoral process, and to elect our representatives in this great democracy, then we must be willing to reexamine all aspects of voting in America. Changing our election day to a weekend may seem like a change of great magnitude. Given the stakes—the integrity of future elections and full participation by as many Americans as possible—I hope my colleagues will recognize it as a commonsense proposal whose time has come.

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

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

S. 149

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Weekend Voting Act''.

**SEC. 2. CHANGE IN CONGRESSIONAL ELECTION DAY TO SATURDAY AND SUNDAY.**

Section 25 of the Revised Statutes (2 U.S.C. 7) is amended to read as follows:

''SEC. 25. The first Saturday and Sunday after the first Friday in November, in every even numbered year, are established as the days for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress commencing on the 3d day of January thereafter.''.

**SEC. 3. CHANGE IN PRESIDENTIAL ELECTION DAY TO SATURDAY AND SUNDAY.**

Section 1 of title 3, United States Code, is amended by striking ''Tuesday next after the first Monday'' and inserting ''first Saturday and Sunday after the first Friday''.

**SEC. 4. POLLING PLACE HOURS.**

(a) IN GENERAL.—

(1) PRESIDENTIAL GENERAL ELECTION.—Chapter 1 of title 3, United States Code, is amended—

(A) by redesignating section 1 as section 1A; and

(B) by inserting before section 1A the following:

**''§ 1. Polling place hours**

''(a) DEFINITIONS.—In this section:

''(1) CONTINENTAL UNITED STATES.—The term 'continental United States' means a State (other than Alaska and Hawaii) and the District of Columbia.

''(2) PRESIDENTIAL GENERAL ELECTION.—The term 'Presidential general election' means the election for electors of President and Vice President.

''(b) POLLING PLACE HOURS.—

''(1) POLLING PLACES IN THE CONTINENTAL UNITED STATES.—Each polling place in the continental United States shall be open, with respect to a Presidential general election, beginning on Saturday at 10:00 a.m. eastern standard time and ending on Sunday at 6:00 p.m. eastern standard time.

''(2) POLLING PLACES OUTSIDE THE CONTINENTAL UNITED STATES.—Each polling place not located in the continental United States shall be open, with respect to a Presidential general election, beginning on Saturday at 10:00 a.m. local time and ending on Sunday at 6:00 p.m. local time.

''(3) EARLY CLOSING.—A polling place may close between the hours of 10:00 p.m. local time on Saturday and 6:00 a.m. local time on Sunday as provided by the law of the State in which the polling place is located.''.

(2) CONGRESSIONAL GENERAL ELECTION.—Section 25 of the Revised Statutes of the United States (2 U.S.C. 7) is amended—

(A) by redesignating section 25 as section 25A; and

(B) by inserting before section 25A the following:

**''SEC. 25. POLLING PLACE HOURS.**

''(a) DEFINITIONS.—In this section:

''(1) CONTINENTAL UNITED STATES.—The term 'continental United States' means a State (other than Alaska and Hawaii) and the District of Columbia.

''(2) CONGRESSIONAL GENERAL ELECTION.—The term 'congressional general election' means the general election for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

''(b) POLLING PLACE HOURS.—

''(1) POLLING PLACES INSIDE THE CONTINENTAL UNITED STATES.—Each polling place in the continental United States shall be open, with respect to a congressional general election, beginning on Saturday at 10:00 a.m. eastern standard time and ending on Sunday at 6:00 p.m. eastern standard time.

''(2) POLLING PLACES OUTSIDE THE CONTINENTAL UNITED STATES.—Each polling place not located in the continental United States shall be open, with respect to a congressional general election, beginning on Saturday at 10:00 a.m. local time and ending on Sunday at 6:00 p.m. local time.

''(3) EARLY CLOSING.—A polling place may close between the hours of 10:00 p.m. local time on Saturday and 6:00 a.m. local time on Sunday as provided by the law of the State in which the polling place is located.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 1 of title 3, United States Code, is amended by striking the item relating to section 1 and inserting the following:

''1. Polling place hours.

''1A. Time of appointing electors.''.

(2) Sections 871(b) and 1751(f) of title 18, United States Code, are each amended by striking ''title 3, United States Code, sections 1 and 2'' and inserting ''sections 1A and 2 of title 3''.

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By Mr. LEAHY:

S. 150. A bill to provide Federal assistance to States for rural law enforcement and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased today to introduce the Rural Law Enforcement Assistance Act of 2009, a bill designed to help rural communities deal with growing crime problems that threaten to become significantly worse as a result of the devastating economic crisis we face.

Congress and the new administration are beginning this session focused on passing a stimulus bill that will provide hundreds of billions of dollars to restart our economy, create jobs, and reverse the economic downturn inherited from the Bush administration. The Bush administration has already provided hundreds of billions of dollars to rescue the financial industry, and President Bush released billions more for assistance to the auto industry. Despite our legislative efforts to protect jobs and the economy as a whole, little has been done to help the millions of people in rural America, who have been hit as hard as anyone by the devastating effects of this recession.

We must help rural communities stay safe during this economic downturn. Rural areas, which lack the crime prevention and law enforcement resources often available in larger communities, have a particular need for assistance to combat the worsening drug and crime problems that threaten the well-being of our small cities and towns and, most particularly, our young people. The Rural Law Enforcement Assistance Act of 2009 will provide just this kind of help.

This bill will reauthorize a rural law enforcement assistance program first passed by Congress in the early 1990s. Like so many valuable programs that help local law enforcement and crime prevention, funding for this program was allowed to lapse under the Bush administration, despite its effectiveness in contributing to the record drop in crime in the late 1990s.

The program would authorize $75 million a year over the next 5 years in new Byrne grant funds for State and local law enforcement, specifically for rural States and rural areas within larger States. This support would be used to hire police officers, purchase necessary police equipment, and to promote the use of task forces and collaborative efforts with Federal law enforcement. Just as important, these funds would also be used for prevention and treatment programs in rural communities; programs that are necessary to combat crime and are too often the first programs cut in an economic downturn. This bill also authorizes $2 million a year over 5 years for specialized training for rural law enforcement officers, since training is another area often cut in hard times. This bill will immediately help cash-strapped rural communities with the law enforcement assistance they desperately need.

In December, the Senate Judiciary Committee traveled to St. Albans, Vermont, to hear from the people of that resilient community about the growing problem of drug-related crime in rural America, and about the innovative steps they are taking to combat that scourge. The introduction of this bill is a step forward to apply the lessons learned in that hearing and in previous crime hearings in Vermont and elsewhere.

Crime is not just a big city issue. As we heard in St. Albans last month, and at a hearing in Rutland, Vermont, earlier last year, the drugs and violence so long seen largely in urban areas now plague even our most rural and remote communities, as well. As the world grows smaller with better transportation and faster communication, so do our shared problems. Rural communities also face the added burden of fighting these crime problems without the sophisticated task forces and specialized squads so common in big cities and metropolitan areas. In fact, too many rural communities, whether in Vermont or other rural States, don't have the money for a local police force at all, and rely almost exclusively on the state police or other state-wide agencies for even basic police services. In this environment, we must do more to provide assistance to those rural communities most at risk and hardest hit by the economic crisis.

Unfortunately, for the last 8 years, throughout the country, State and local law enforcement agencies have been stretched thin as they shoulder both traditional crime-fighting duties and new homeland security demands. They have faced continuous cuts in Federal funding during the Bush years, and time and time again, our State and local law enforcement officers have been unable to fill vacancies and get the equipment they need.

This trend is unacceptable, and that is why we must restore funding for rural law enforcement that proved so successful in 1990s, when crime fell to record lows in rural and urban areas alike.

As a former prosecutor, I have always advocated vigorous enforcement and punishment of those who commit serious crimes. But I also know that punishment alone will not solve the problems of drugs and violence in our rural communities. Police chiefs from Vermont and across the country have told me that we cannot arrest our way out of this problem.

Combating drug use and crime requires all the tools at our disposal, including enforcement, prevention, and treatment. The best way to prevent crime is often to provide young people with opportunities and constructive things to do, so they stay away from drugs and crime altogether. If young people do get involved with drugs, treatment in many cases can work to help them to turn their lives around. Good prevention and treatment programs have been shown again and again to reduce crime, but regrettably, the Bush administration has consistently sought to reduce funding for these important programs. It is time to move in a new direction.

I will work with the new administration to advance legislation that will give State and local law enforcement the support it needs, that will help our cities and towns to implement the kinds of innovative and proven community-based solutions needed to reduce crime. The legislation I introduce today is a beginning, addressing the urgent and unmet need to support our rural law enforcement as they struggle to combat drugs and crime.

It is a first step for us to help our small cities and towns weather the worsening conditions of these difficult times and begin to move in a better direction. I hope Senators on both sides of the aisle will join me in supporting this important legislation.

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

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

S. 150

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Rural Law Enforcement Assistance Act of 2009''.

**SEC. 2. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.**

(a) AUTHORIZATION OF APPROPRIATIONS FOR RURAL LAW ENFORCEMENT.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(9)) is amended to read as follows:

''(9) There are authorized to be appropriated to be carried out part O—

''(A) $75,000,000 for fiscal year 2009;

''(B) $75,000,000 for fiscal year 2010;

''(C) $75,000,000 for fiscal year 2011;

''(D) $75,000,000 for fiscal year 2012; and

''(E) $75,000,000 for fiscal year 2013.''.

(b) CLARIFICATION OF RURAL STATE DEFINITION.—Section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(b)) is amended by striking all that follows ''a State in which the largest county has fewer than'' and inserting ''200,000 people, based on the decennial census of 2000 through fiscal year 2009.''.

(c) AUTHORIZATION OF APPROPRIATIONS FOR RURAL LAW ENFORCEMENT TRAINING.—Section 180103(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14082(b)) is amended to read as follows:

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a)—

''(1) $2,000,000 for fiscal year 2009;

''(2) $2,000,000 for fiscal year 2010;

''(3) $2,000,000 for fiscal year 2011;

''(4) $2,000,000 for fiscal year 2012; and

''(5) $2,000,000 for fiscal year 2013.''.

**SEC. 3. CLARIFICATION OF TITLES.**

(a) OMNIBUS CRIME CONTROL ACT.—Part O of the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb et seq.) is amended by—

(1) striking the part heading and inserting ''**Rural Law Enforcement**''; and

(2) striking the heading for section 1501 and inserting ''**RURAL LAW ENFORCEMENT ASSISTANCE**''.

(b) VIOLENT CRIME CONTROL ACT.—Section 180103 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14082) is amended by striking the heading for the section and inserting ''RURAL LAW ENFORCEMENT TRAINING''.

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By Mr. MCCAIN (for himself and Mr. KYL):

S. 151. A bill to protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I am pleased to be joined by my colleagues Senator THOMAS, Senator KYL, and Senator DOMENICI in introducing a bill to amend the Indian Arts and Crafts Act. This legislation would improve Federal laws that protect the integrity and originality of Native American arts and crafts.

The Indian Arts and Crafts Act prohibits the misrepresentation in marketing of Indian arts and crafts products, and makes it illegal to display or sell works in a manner that falsely suggests it's the product of an individual Indian or Indian Tribe. Unfortunately, the law is written so that only the Federal Bureau of Investigation, FBI, acting on behalf of the Attorney General, can investigate and make arrests in cases of suspected Indian art counterfeiters. The bill we are introducing would amend the law to expand existing Federal investigative authority by authorizing other Federal investigative bodies, such as the BIA Office of Law Enforcement, in addition to the FBI, to investigate cases of misrepresentation of Indian arts and crafts. This bill is similar to provisions included in S. 1255, which passed the Senate last Congress but wasn't acted on by the House, and the Native American Omnibus Technical Corrections Act of 2007, S. 2087.

A major source of tribal and individual Indian income is derived from the sale of handmade Indian arts and crafts. Yet, millions of dollars are diverted each year from these original artists and Indian tribes by those who reproduce and sell counterfeit Indian goods. Few, if any, criminal prosecutions have been brought in Federal court for such violations. It is understandable that enforcing the criminal law under the Indian Arts and Crafts Act is often stalled by the other responsibilities of the FBI including investigating terrorism activity and violent crimes in Indian country. Therefore, expanding the investigative authority to include other Federal agencies is intended to promote the active investigation of alleged misconduct. It is my hope that this much needed change will deter those who choose to violate the law.

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By Mr. MCCAIN (for himself and Mr. KYL):

S. 152. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined by Senator KYL in reintroducing legislation to authorize a special resources and land management study for lands adjacent to the Walnut Canyon National Monument in Arizona. The study is intended to evaluate a range of management options for public lands adjacent to the monument to ensure adequate protection of the canyon's cultural and natural resources. A similar bill was introduced last Congress and received a hearing in the Senate Energy and Natural Resources Committee's Subcommittee on National Parks. The bill being introduced today reflects suggested changes of that Subcommittee and includes language that met their approval. I am grateful for the input of the members of the Subcommittee and their staff.

For several years, local communities adjacent to the Walnut Canyon National Monument have debated whether the land surrounding the monument would be best protected from future development under management of the U.S. Forest Service or the National Park Service. The Coconino County Board and the Flagstaff City Council have passed resolutions concluding that the preferred method to determine what is best for the land surrounding Walnut Canyon National Monument is by having a Federal study conducted. The recommendations from such a study would help to resolve the question of future management and whether expanding the monument's boundaries could compliment current public and multiple-use needs.

The legislation also would direct the Secretary of the Interior and the Secretary of Agriculture to provide recommendations for management options for maintenance of the public uses and protection of resources of the study area. I fully expect that as this measure continues through the legislative process, Congress will ensure that funding offsets are provided to it and every other spending measure as we work to restore fiscal discipline to Washington in a bi-partisan manner.

This legislation would provide a mechanism for determining the management options for one of Arizona's high uses scenic areas and protect the natural and cultural resources of this incredibly beautiful monument. I urge my colleagues to support its passage.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 153. A bill to amend the National Trails System Act to designate the Arizona National Scenic Trail; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senator KYL in introducing the Arizona Trail Feasibility National Scenic Trail Act. This bill would designate the Arizona Trail as a National Scenic Trail.

The Arizona Trail is a beautifully diverse stretch of public lands, mountains, canyons, deserts, forests, historic sites, and communities. The Trail is approximately 807 miles long and begins at the Coronado National Memorial on the U.S.-Mexico border and ends in the Bureau of Land Management's Arizona Strip District on the Utah border near the Grand Canyon. In between these two points, the Trail winds through some of the most rugged, spectacular scenery in the Western United States. The corridor for the Arizona Trail encompasses the wide range of ecological diversity in the state, and incorporates a host of existing trails into one continuous trail. In fact, the Trail route is so topographically diverse that a person can hike from the Sonoran Desert to Alpine forests in one day.

For over a decade, more than 16 Federal, State, and local agencies, as well as community and business organizations, have partnered to create, develop, and manage the Arizona Trail. Through their combined efforts, these agencies and the members of the Arizona Trail Association have completed over 90 percent of the longest contiguous land-based trail in the State of Arizona. Designating the Arizona Trail as a National Scenic Trail would help streamline the management of the high-use trail to ensure that this pristine stretch of diverse land is preserved for future generations to enjoy.

Since 1968, when the National Trails System Act was established, Congress has designated over 20 national trails. Before a trail receives a national designation, a federal study is typically required to assess the feasibility of establishing a trail route. The Arizona Trail doesn't require a feasibility study because it's virtually complete with less than 60 miles left to build and sign. All but 1-percent of the trail resides on public land, and the unfinished segments don't involve private property. The trail meets the criteria to be labeled a National Scenic Trail and already appears on all Arizona state maps. Therefore, the Congress has reason to forego an unnecessary and costly feasibility study and proceed straight to National Scenic Trail designation.

The Arizona Trail is known throughout the State as boon to outdoor enthusiasts. The Arizona State Parks recently released data showing that two-thirds of Arizonans consider themselves trail users. Millions of visitors also use Arizona's trails each year. In one of the fastest-growing states in the United States, the designation of the Arizona Trail as a National Scenic Trail would ensure the preservation of a corridor of open space for hikers, mountain bicyclists, cross country skiers, snowshoers, eco-tourists, equestrians, and joggers.

I urge my colleagues to support the passage of this legislation.

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By Ms. SNOWE (for herself, Mrs. LINCOLN, and Mr. BUNNING):

S. 155. A bill to amend the Internal Revenue Code of 1986 to suspend the taxation of unemployment compensation for 2 years; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to reintroduce a bill I offered last December that will provide much-needed relief to struggling families across America. The Unemployment Benefit Tax Suspension Act of 2009 is a critical piece of legislation, which should be considered as part of any stimulus package, that would suspend the collection of Federal income tax on unemployment benefits for 2008 and 2009. This bill would ensure that as individuals sit down in the next couple months to complete their 2008 tax bills, they will not have to worry about paying taxes on the unemployment benefits they received last year or can get refunds of taxes withheld. It also means that the unemployed would not be concerned with taxes on benefits paid this year. I thank Senators LINCOLN and BUNNING for joining me to introduce this legislation.

In light of the calamitous labor market, Congress must act to ensure that workers who lose their jobs do not also lose their livelihoods. In December, the Labor Department released sobering statistics that demonstrated the gravity of the situation we face. In November, the economy shed 533,000 jobs, the largest monthly job loss since December 1974. Our unemployment rate now stands at a perilous 6.7 percent, a 15-year high. We have lost 1.9 million jobs since the beginning of our present recession in December 2007—including two-thirds of those jobs in the last 3 months alone—and the number of unemployed stands at a whopping 10.3 million.

Suspending the Federal income tax on unemployment benefits is a simple way to assist our Nation's unemployed workers and families. In fact, the CBO has estimated that in 2005, of the 8.1 million recipients of unemployment compensation benefits, 7.5 million had incomes of under $100,000. As such, most of the benefits of suspending this tax are likely to go to lower- and middle-income families, those struggling harder than ever just to make ends meet.

During these challenging times, taxes on unemployment compensation represents a burden that unemployed members of our society simply cannot afford. Working families are already suffering, with the high cost of groceries, an unstable energy market, and the outrageous pricetag for health care. My bill offers a means to help stimulate the economy by making unemployed workers' benefits stretch farther. While it is certainly not a solution to the problem, it is a step in the right direction.

President-elect Obama has voiced his support for this general idea, calling it ''a way of giving more relief to families,'' and I believe that is the ultimate goal we must pursue in these trying times. I look forward to seeing this bill is passed in a timely manner, so that the impact can be immediate.

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

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

S. 155

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Unemployment Benefit Tax Suspension Act of 2009''.

**SEC. 2. SUSPENSION OF TAX ON UNEMPLOYMENT COMPENSATION.**

(a) IN GENERAL.—Section 85 of the Internal Revenue Code of 1986 (relating to unemployment compensation) is amended by adding at the end the following new subsection:

''(c) TEMPORARY SUSPENSION.—Subsection (a) shall not apply to taxable years beginning after December 31, 2007, and before January 1, 2010.''.

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By Ms. SNOWE (for herself, Mr. KERRY, and Ms. LANDRIEU):

S. 156. A bill to amend the Internal Revenue Code of 1986 to extend enhanced small business expensing and to provide for a 5-year net operating loss carryback for losses incurred in 2008 or 2009; to the Committee on Finance.

Ms, SNOWE. Mr. President, I rise today to introduce legislation to provide critical tax incentives to our Nation's small businesses, which will help them to make vital investments in new plant and equipment and weather the recession that is crippling our Nation's economy. The Small Business Stimulus Act of 2009 is just three pages, but by extending enhanced small business expensing and establishing a 5-year carryback for net operating losses, it would pack a powerful punch and assist America's 26 million small firms that represent over 99.7 of all employers. I am pleased that press reports indicate that President-elect Obama will include these proposals in his stimulus initiative, and I hope that Congress will feature them in any legislation we pass in the coming weeks. I thank Senator KERRY for joining me to introduce this legislation.

I have long championed so-called enhanced Section 179 expensing, and I was gratified that Congress, as part of the Economic Stimulus Act of 2008, allowed small businesses in Maine and across the nation to expense up to $250,000 of their investments, including

the purchase of essential new equipment. Unfortunately, the incentive in that bill was written to last just one year, and so, in 2009, absent additional action, small firms will be able to expense just $133,000 of new investment. Instead of being able to write off more of their equipment purchases immediately, films will have to recover their costs over 5, 7, or more years.

At a time in which we find ourselves in a recession and our nation's small businesses are having trouble finding capital to make job-creating new investments, we simply cannot allow that to occur. Accordingly, my bill would allow small businesses to continue expensing up to $250,000 of new investment in both 2009 and 2010. The purchase of new equipment will undoubtedly contribute to continued productivity growth in the business community, which economic experts have repeatedly stressed is essential to the long-term vitality of our economy.

Second, my bill recognizes that many businesses that were once profitable are experiencing significant losses as a result of current economic conditions. As a result, many are curtailing operations, and over 2 million Americans lost their jobs in 2008. It is for this reason that I am introducing a proposal to extend the net operating loss carryback period from 2 to 5 years. In this way, businesses reporting losses in 2008 and 2009 may offset those losses against profits from as many as 5 years in the past and claim an immediate tax refund. They can use that money to help sustain operations and retain employees while the economy recovers. This proposal should be particularly beneficial to small businesses, which are responsible for creating 75 percent of net new jobs. Finally, I would note that although I proposed this very change in January 2008 and it cleared the Finance Committee as part of last year's stimulus legislation, it was subsequently dropped in negotiations with the House of Representatives. I hope that this worthy proposal does not suffer the same fate this year.

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

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

S. 156

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Small Business Stimulus Act of 2009''.

**SEC. 2. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESSES.**

(a) IN GENERAL.—Paragraph (7) of section 179(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''2008'' and inserting ''2008, 2009, or 2010'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, 2009, OR 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 3. 5-YEAR CARRYBACK OF NET OPERATING LOSSES.**

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

''(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—In the case of a net operating loss for any taxable year ending during 2008 or 2009—

''(i) subparagraph (A)(i) shall be applied by substituting '5' for '2',

''(ii) subparagraph (E)(ii) shall be applied by substituting '4' for '2', and

''(iii) subparagraph (F) shall not apply.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to taxable years ending during such calendar years, or''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendments made by subsection (b) shall apply to taxable years ending after 1997.

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By Ms. SNOWE (for herself and Mrs. LINCOLN):

S. 157. A bill to amend the Internal Revenue Code of 1986 to expand the temporary waiver of required minimum distribution rules for certain retirement plans and accounts; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I rise to introduce legislation to offer expanded relief to retirees who are forced to take so-called required minimum distributions from their retirement accounts. After a year in which the Dow Jones Industrial Average fell a staggering 34 percent, Congress rightly suspended required minimum distribution rules for 2009 as part of the Worker, Retiree, and Employer Recovery Act of 2008. Unfortunately, Congress did not act to suspend the rules for 2008 or 2010 as I had previously proposed. Consequently, we now find ourselves in a situation in which 1 year of relief is insufficient to enable retirees to recoup their losses, and I am, therefore, introducing the Retirement Account Distribution Improvement Act of 2009 to allow amounts required to have been distributed in 2008 to be re-contributed and to waive the rules for 2010. I would like to thank Senator LINCOLN for cosponsoring this legislation.

Under current law, individuals who have reached age 70.5 generally must begin to withdraw funds from their IRAs or defined contribution retirement plans, including 401(k), 403(b), 457, and TSP plans. The withdrawals must begin by April 1 of the year after which an individual attains age 70.5. Failure to take a required minimum distribution may result in a 50 percent excise tax on the difference between what must be withdrawn and the amount actually distributed.

In times that equities markets are rising and retirement account balances are growing, required minimum distribution rules are sensible. Indeed, they ensure the Government gains revenue after years of tax-deferred growth. Unfortunately, we are now witnessing unprecedented losses in equities markets that have caused many individuals to suffer steep losses in their retirement account balances. Notably, the American Association of Retired Persons has said that retirement accounts have lost as much as $2.3 trillion between September 30, 2007, and October 16, 2008. Forcing individuals to prematurely liquidate accounts and pay income taxes on the proceeds, as is required under current law, instead of allowing them to wait until the market recovers and continue to defer tax, simply adds insult to injury. Moreover, mandating withdrawals may cause stock prices to fall, hurting other investors.

It is for these reasons that I am today introducing legislation to allow individuals who were forced to withdraw funds in 2008 to re-contribute that money into their accounts by July 1, 2009. Any amounts erroneously distributed in early 2009 could also be re-contributed by July 1, 2009. Finally, my bill would also waive minimum required distributions for 2010.

Although Congress took a solid first step by suspending minimum required distributions for 2009, we must do more. With many predicting a multi-year recession, Congress must adopt a longer-term approach to helping individuals protect their retirement assets and weather the current economic storm. Individuals may require several years to recoup losses they have sustained, and by enabling them to keep assets in their retirement accounts until 2011, this bill offers them that opportunity. At that point, Congress can reevaluate whether the waiver of current-law rules should be further extended.

I urge all Senators to consider the benefits this legislation will provide to millions of retirees all across the United States, and I look forward to working with my colleagues to enact it in a timely manner.

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

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

S. 157

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Retirement Account Distribution Improvement Act of 2009''.

**SEC. 2. EXPANSION OF WAIVER OF REQUIRED MINIMUM DISTRIBUTION RULES FROM CERTAIN RETIREMENT PLANS AND ACCOUNTS.**

(a) IN GENERAL.—Subparagraph (H) of section 401(a)(9) of the Internal Revenue Code of 1986, as added by the Worker, Retiree, and Employer Recovery Act of 2008, is amended—

(1) by striking ''for calendar year 2009'' in clause (i) and inserting ''for calendar years 2008, 2009 or 2010'',

(2) by striking ''2009'' in clause (ii)(I) and inserting ''2010'', and

(3) by striking ''to calendar year 2009'' in clause (ii)(II) and inserting ''to calendar years 2008, 2009, or 2010''.

(b) ELIGIBLE ROLLOVER DISTRIBUTIONS.—The last sentence of section 402(c)(4) of the Internal Revenue Code of 1986, as added by the Worker, Retiree, and Employer Recovery Act of 2008, is amended by striking ''2009'' and inserting ''2008, 2009, or 2010''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) RECONTRIBUTIONS OF DISTRIBUTIONS IN 2008 OR EARLY 2009.—

(A) IN GENERAL.—If a person receives 1 or more eligible distributions, the person may, on or before July 1, 2009, make one or more contributions (in an aggregate amount not exceeding all eligible distributions) to an eligible retirement plan and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16) of the Internal Revenue Code of 1986, as the case may be. For purposes of the preceding sentence, rules similar to the rules of clauses (ii) and (iii) of section 402(c)(11)(A) of such Code shall apply in the case of a beneficiary who is not the surviving spouse of the employee or of the owner of the individual retirement plan.

(B) ELIGIBLE DISTRIBUTION.—For purposes of this paragraph—

(i) IN GENERAL.—Except as provided in clause (ii), the term ''eligible distribution'' means an applicable distribution to a person from an individual account or annuity—

(I) under a plan which is described in clause (iv), and

(II) from which a distribution would, but for the application of section 401(a)(9)(H) of such Code, have been required to have been made to the individual for 2008 or 2009, whichever is applicable, in order to satisfy the requirements of sections 401(a)(9), 404(a)(2), 403(b)(10), 408(a)(6), 408(b)(3), and 457(d)(2) of such Code.

(ii) ELIGIBLE DISTRIBUTIONS LIMITED TO REQUIRED DISTRIBUTIONS.—The aggregate amount of applicable distributions which may be treated as eligible distributions for purposes of this paragraph shall not exceed—

(I) for purposes of applying subparagraph (A) to distributions made in 2008, the amount which would, but for the application of section 401(a)(9)(H) of such Code, have been required to have been made to the individual in order to satisfy the requirements of sections 401(a)(9), 404(a)(2), 403(b)(10), 408(a)(6), 408(b)(3), and 457(d)(2) of such Code for 2008, and

(II) for purposes of applying subparagraph (A) to distributions made in 2009, the sum of the amount which would, but for the application of such section 401(a)(9)(H), have been required to have been made to the individual in order to satisfy such requirements for 2009, plus the excess (if any) of the amount described in subclause (I) which may be distributed in 2009 to meet such requirements for 2008 over the portion of such amount taken into account under subclause (I) for distributions made in 2008.

(iii) APPLICABLE DISTRIBUTION.—

(I) IN GENERAL.—The term ''applicable distribution'' means a payment or distribution which is made during the period beginning on January 1, 2008, and ending on June 30, 2009.

(II) EXCEPTION FOR MINIMUM REQUIRED DISTRIBUTIONS FOR OTHER YEARS.—Such term shall not include a payment or distribution which is required to be made in order to satisfy the requirements of section 401(a)(9), 404(a)(2), 403(b)(10), 408(a)(6), 408(b)(3), or 457(d)(2) of such Code for a calendar year other than 2008 or 2009.

(III) EXCEPTION FOR PAYMENTS IN A SERIES.—In the case of any plan described in clause (iv)(I), such term shall not include any payment or distribution made in 2009 which is a payment or distribution described in section 402(c)(4)(A).

(iv) PLANS DESCRIBED.—A plan is described in this clause if the plan is—

(I) a defined contribution plan (within the meaning of section 414(i) of such Code) which is described in section 401, 403(a), or 403(b) of such Code or which is an eligible deferred compensation plan described in section 457(b) of such Code maintained by an eligible employer described in section 457(e)(1)(A)) of such Code, or

(II) an individual retirement plan (as defined in section 7701(a)(37) of such Code).

(C) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a payment or distribution from a plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the payment or distribution in an eligible rollover distribution (as defined in section 402(c)(4) of such Code) and as having transferred the amount to the plan in a direct trustee to trustee transfer.

(D) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to subparagraph (A) with respect to a payment or distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then, to the extent of the amount of the contribution, such payments or distributions shall be treated as a distribution that satisfies subparagraphs (A) and (B) of section 408(d)(3) of such Code and as having been transferred to the individual retirement plan in a direct trustee to trustee transfer.

(3) PROVISIONS RELATING TO PLAN OR CONTRACT AMENDMENTS.—

(A) IN GENERAL.—If this paragraph applies to any pension plan or contract amendment, such pension plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subparagraph (B)(ii)(I).

(B) AMENDMENTS TO WHICH PARAGRAPH APPLIES.—

(i) IN GENERAL.—This paragraph shall apply to any amendment to any pension plan or annuity contract which—

(I) is made by pursuant to the amendments made by this section, and

(II) is made on or before the last day of the first plan year beginning on or after January 1, 2011.

In the case of a governmental plan, subclause (II) shall be applied by substituting ''2012'' for ''2011''.

(ii) CONDITIONS.—This paragraph shall not apply to any amendment unless during the period beginning on January 1, 2009, and ending on December 31, 2010 (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect.

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By Ms. SNOWE (for herself, Mr. KERRY, Mr. BROWN, and Mrs. LINCOLN):

S. 158. A bill to amend the Internal Revenue Code of 1986 to expand the availability of industrial development bonds to facilities manufacturing intangible property; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to reintroduce legislation that would provide State and local development finance authorities with greater flexibility in promoting economic growth that meets the changing realities of an ever more global economy. Specifically, my bill would expand the definition of ''manufacturing'' as it pertains to the small-issue Industrial Development Bond, IDB, program to include the creation of ''intangible'' property. I am pleased to be joined by Senators KERRY, BROWN, and LINCOLN in reintroducing this critical legislation to promote economic development, and I strongly believe it would be a critical additional to any stimulus legislation.

Our Nation's capacity to innovate is a key reason why our economy remains the envy of the world, even during these difficult economic times. Knowledge-based businesses have been at the forefront of this innovation that has bolstered the economy over the long-term. For example, science parks have helped lead the technological revolution and have created more than 300,000 high-paying science and technology jobs, along with another 450,000 indirect jobs for a total of 750,000 jobs in North America.

It is clear that the promotion of knowledge-based industries can be a key economic tool for States and localities. This is especially true for States that have seen a loss in traditional manufacturing. In my home State of Maine, we lost 28 percent of our total manufacturing employment over the last decade. I believe that it is critical that we provide States and localities with a wider range of options in promoting economic development, particularly as our economy lost over 2 million jobs in 2008. My legislation will do just that by expanding the availability of small-issue IDBs to new economy industries, such as software and biotechnology, that have proven their ability to provide high-paying jobs.

These IDBs allow State and local development finance authorities, like the Finance Authority of Maine, to issue tax-exempt bonds for the purpose of raising capital to provide low-cost financing of manufacturing facilities. These bonds, therefore, provide local authorities with an invaluable tool to attract new employers and assist existing ones to grow. The result is a win-win situation for local communities providing them with much needed jobs. Consequently, it only makes sense to ensure that these finance authorities have maximum flexibility in options to grow jobs.

In addition, my bill provides some technical clarity to distinguish between the phrases ''functionally related and subordinate facilities'' and ''directly related and ancillary facilities.'' Until 1988, there was little confusion based on Treasury regulations going back to 1972 that made it clear that ''functionally related and subordinate facilities'' were clearly eligible for

financing through private activity tax-exempt bonds. But, Congress enacted the Technical and Miscellaneous Revenue Bond Act of 1988 that imposed a limitation that not more than 25 percent of tax-exempt bond financing could be used on ''directly related and ancillary facilities.'' While these two phrases appear to be very similar, they are indeed distinguishable from each other. Unfortunately, the Internal Revenue Service has blurred this distinction between the phrases which has had an adverse impact on the way facilities are able to utilize tax-exempt bond financing. My legislation would make it clear that ''functionally related and subordinate facilities'' are not susceptible to the 25 percent limitation.

We must continue to encourage all avenues of economic development if America is to compete in a changing and increasingly global economy, and my legislation is one small step in furtherance of that goal. I urge my colleagues to join me in supporting this bill and to include it in stimulus legislation we will be considering in the coming weeks.

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

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

S. 158

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

**SECTION 1. EXPANSION OF AVAILABILITY OF INDUSTRIAL DEVELOPMENT BONDS TO FACILITIES MANUFACTURING INTANGIBLE PROPERTY.**

(a) EXPANSION TO INTANGIBLE PROPERTY.—

(1) IN GENERAL.—The first sentence of section 144(a)(12)(C) of the Internal Revenue Code of 1986 (defining manufacturing facility) is amended—

(A) by inserting '', creation,'' after ''used in the manufacturing'', and

(B) by inserting ''or intangible property which is described in section 197(d)(1)(C)(iii)'' before the period at the end.

(2) CLARIFICATION.—The last sentence of section 144(a)(12)(C) of such Code is amended to read as follows: ''For purposes of the first sentence of this subparagraph, the term 'manufacturing facility' includes—

''(i) facilities which are functionally related and subordinate to a manufacturing facility (determined without regard to this clause), and

''(ii) facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this clause) if—

''(I) such facilities are located on the same site as the manufacturing facility, and

''(II) not more than 25 percent of the net proceeds of the issue are used to provide such facilities.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

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By Mr. LIEBERMAN (for himself, Mr. HATCH, Mr. LEAHY, Mr. KENNEDY, MRS. CLINTON, Mr. DODD, Mr. SANDERS, Mr. KERRY, Mr. DURBIN, and Mr. FEINGOLD):

S. 160. A bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I am honored to have the opportunity today, obviously early on this first day of this new session of Congress, together with my colleague from Utah, Senator HATCH, to introduce bipartisan legislation which will finally grant citizens of our Nation's Capital, the District of Columbia, voting representation, the proper representation to which they are entitled as citizens.

That representative voting would be in the House of Representatives. This bill is entitled ''The District of Columbia House Voting Rights Act of 2009.'' It is identical to a bill which Senator HATCH and I introduced in the 110th Congress.

It would, for the first time, give citizens of the District of Columbia full voting representation in the House while adding a fourth congressional seat for the State of Utah based on population statistics from the 2000 census in which they came very close. I think the people of Utah would in fact say they deserve an additional seat.

This is the fifth session in which I have introduced legislation to try to correct what I believe is a fundamental wrong—which is to deny the citizens of our Nation's Capital voting representation in Congress. I hope and believe and pray this is the session in which we are going to get this done.

Last year, this bill passed overwhelmingly in the House by a vote of 271 to 177, but it fell three votes short of gaining cloture in the Senate, though the vote in favor was 57 to 42. With a new Congress and a new President who was in fact a cosponsor of this bill himself in the last session of Congress, I am hopeful we can pass this legislation, vital to the rights of nearly 600,000 Americans living in the District of Columbia. Keep in mind the population of the District, though small compared to many States, is roughly equal to the State populations of Alaska, North Dakota, Vermont, and Wyoming, all of which have, of course, not only representation—that is, voting in the House—but two Senators here. This deals only and exclusively with voting representation in the House.

I want to particularly thank my dear friend and colleague, Senator ORIN HATCH, for his continued, principled, steadfast support of this bill. He set aside partisanship to join me and others in trying to right this historic wrong. I greatly admire his commitment to this cause.

I am also proud to say Senators LEAHY, KENNEDY, CLINTON, DODD, SANDERS, KERRY, DURBIN, and FEINGOLD are today joining as original cosponsors of this legislation.

Of course, I pay special honor and thanks to the DC Delegate, ELEANOR HOLMES NORTON, who has been a tireless champion of full representation for the citizens of the District; of course, a tireless champion for the citizens of the District generally. Delegate NORTON is introducing a similar bill in the House today.

I do this with a certain special personal pride because Delegate NORTON and I were at law school at Yale at the same time just a few years ago. It probably would seem, to the casual observer, hard to believe that we deny the residents of our Nation's Capital of the right to have a voting representative in the House of Representatives. In fact, public opinion polls have been taken over the years that ask people: Do you think the residents of the District of Columbia have voting representation in the House? Overwhelming, the American public says: Of course they do, because they cannot believe there would be a reason to deny them the representation.

In recent years, those who have opposed this legislation which would correct a historic injustice have argued that congressional representation is granted only to the States under the Constitution, and therefore our legislation is unconstitutional.

With all respect, I believe that simply is not true. The Constitution provides Congress with the authority to bestow voting rights on the District. Multiple constitutional experts, spanning the full ideological spectrum of left to right, including Ken Starr, former judge on the U.S. Court of Appeals and former Solicitor General, and Viet Dinh, former Assistant Attorney General, and many others have told Congress and the public that this authority, which is, the authority to grant representation in Congress, lies within the District Clause of the Constitution, which is article I, section 8, where it states:

> Congress has the power to exercise exclusive legislation in all cases whatsoever over such District.

Congress has repeatedly used this authority to treat the District of Columbia as a State for various public purposes. For example, as long ago as 1940, the Judiciary Act of 1789 was revised to broaden diversity jurisdiction to include citizens of the District, even though the Constitution specifically provides that national courts may hear cases ''between citizens of different States.''

In other words, in that act, Congress said no, for purposes of diversity of jurisdiction access to the courts, even though the Constitution says that courts may hear cases between citizens of different States. It would be incomprehensible that citizens of the District of Columbia, because they happen to live in the Nation's Capital, could not gain access to the Federal courts.

When challenged, this revision to the Judiciary Act was upheld as constitutional by the Federal courts themselves. Furthermore, the courts have found that Congress has the authority to impose national taxes on the District, to provide a jury trial to residents of the District, and to include

the District in interstate commerce regulations.

These are rights and responsibilities that our Constitution grants to States. Yet the District Clause has allowed Congress to apply those rights and responsibilities to the District of Columbia because not to do so would make residents of the District, or the District itself, second class in their citizenship.

Treating the District as a State for purposes of voting representation in Congress should be no different. The elections of 2008 saw a historic number of citizens carrying out their civic duty by voting for their representatives in Congress. Unfortunately, for over 200 years, DC residents have been denied that most basic right.

According to a 2005 KRC Research poll, 82 percent of Americans, when told that residents of the District do not have a voting representative in Congress, say it is time to give that voting representation to the citizens of our Nation's Capital.

This has very practical and just consequences. People of the District have been the target directly of terrorist attacks, but they have no vote on how the Federal Government provides for their homeland security. Men and women citizens of the District have fought bravely in our wars, in defense of our security and our freedom over the years, many giving their lives in defense of our country. Yet citizens of the District have no voting representation in Congress on the serious questions of war and peace, veterans' benefits, and the like. Of course, the citizens of the District of Columbia, per capita, pay Federal income taxes at the second highest rate in the Nation. Yet they have absolutely no voice, no voting representation, in setting tax rates or in determining how the revenues raised by those taxes will be spent.

This is plain wrong. The Supreme Court has said ''that no right is more precious in a free country than that of having a vote in the election of those who make the laws, under which, as good citizens, we must live.''

We can no longer deny our fellow American citizens who happen to live in the District of Columbia this precious right. With the United States engaged now in two wars, a global war also against terrorists who attacked us on 9/11/2001, with our country facing the most significant economic crisis since the Great Depression, it is past time to grant the vote to those citizens living in our Nation's Capital so their vote can be rightfully heard as we debate these great and complex issues of our time.

This matter has fallen, according to our rules, under the jurisdiction of the Senate Committee on Homeland Security and Governmental Affairs, which I am privileged to chair. I hope we will be able to take it up quickly. It is my intention to consider this legislation at the first markup of our committee in the session, and then to bring it to the floor as quickly as possible with a high sense of optimism that on this occasion, if there is another filibuster that we will have, with the help of the new Members of the Senate, more than 60 votes necessary to close it off, and at least have a vote on this question of fundamental rights for 600,000 of our fellow Americans.

I want to submit not only an original copy of the bill to the clerk, but also for the RECORD a statement from Senator HATCH, which I ask unanimous consent to appear as if read.

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

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

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

S. 160

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''District of Columbia House Voting Rights Act of 2009''.

**SEC. 2. TREATMENT OF DISTRICT OF COLUMBIA AS CONGRESSIONAL DISTRICT.**

(a) CONGRESSIONAL DISTRICT AND NO SENATE REPRESENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the District of Columbia shall be considered a Congressional district for purposes of representation in the House of Representatives.

(2) NO REPRESENTATION PROVIDED IN SENATE.—The District of Columbia shall not be considered a State for purposes of representation in the United States Senate.

(b) CONFORMING AMENDMENTS RELATING TO APPORTIONMENT OF MEMBERS OF HOUSE OF REPRESENTATIVES.—

(1) INCLUSION OF SINGLE DISTRICT OF COLUMBIA MEMBER IN REAPPORTIONMENT OF MEMBERS AMONG STATES.—Section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), is amended by adding at the end the following new subsection:

''(d) This section shall apply with respect to the District of Columbia in the same manner as this section applies to a State, except that the District of Columbia may not receive more than one Member under any reapportionment of Members.''.

(2) CLARIFICATION OF DETERMINATION OF NUMBER OF PRESIDENTIAL ELECTORS ON BASIS OF 23RD AMENDMENT.—Section 3 of title 3, United States Code, is amended by striking ''come into office;'' and inserting the following: ''come into office (subject to the twenty-third article of amendment to the Constitution of the United States in the case of the District of Columbia);''.

**SEC. 3. INCREASE IN MEMBERSHIP OF HOUSE OF REPRESENTATIVES.**

(a) PERMANENT INCREASE IN NUMBER OF MEMBERS.—Effective with respect to the 112th Congress and each succeeding Congress, the House of Representatives shall be composed of 437 Members, including the Member representing the District of Columbia pursuant to section 2(a).

(b) REAPPORTIONMENT OF MEMBERS RESULTING FROM INCREASE.—

(1) IN GENERAL.—Section 22(a) of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a(a)), is amended by striking ''the then existing number of Representatives'' and inserting ''the number of Representatives established with respect to the 112th Congress''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the regular decennial census conducted for 2010 and each subsequent regular decennial census.

(c) TRANSMITTAL OF REVISED APPORTIONMENT INFORMATION BY PRESIDENT.—

(1) STATEMENT OF APPORTIONMENT BY PRESIDENT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress a revised version of the most recent statement of apportionment submitted under section 22(a) of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a(a)), to take into account this Act and the amendments made by this Act and identifying the State of Utah as the State entitled to one additional Representative pursuant to this section.

(2) REPORT BY CLERK.—Not later than 15 calendar days after receiving the revised version of the statement of apportionment under paragraph (1), the Clerk of the House of Representatives shall submit a report to the Speaker of the House of Representatives identifying the State of Utah as the State entitled to one additional Representative pursuant to this section.

**SEC. 4. EFFECTIVE DATE; TIMING OF ELECTIONS.**

The general election for the additional Representative to which the State of Utah is entitled for the 112th Congress and the general election for the Representative from the District of Columbia for the 112th Congress shall be subject to the following requirements:

(1) The additional Representative from the State of Utah will be elected pursuant to a redistricting plan enacted by the State, such as the plan the State of Utah signed into law on December 5, 2006, which—

(A) revises the boundaries of Congressional districts in the State to take into account the additional Representative to which the State is entitled under section 3; and

(B) remains in effect until the taking effect of the first reapportionment occurring after the regular decennial census conducted for 2010.

(2) The additional Representative from the State of Utah and the Representative from the District of Columbia shall be sworn in and seated as Members of the House of Representatives on the same date as other Members of the 112th Congress.

**SEC. 5. CONFORMING AMENDMENTS.**

(a) REPEAL OF OFFICE OF DISTRICT OF COLUMBIA DELEGATE.—

(1) REPEAL OF OFFICE.—

(A) IN GENERAL.—Sections 202 and 204 of the District of Columbia Delegate Act (Public Law 91–405; sections 1–401 and 1–402, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(B) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(2) CONFORMING AMENDMENTS TO DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended as follows:

(A) In section 1 (sec. 1–1001.01, D.C. Official Code), by striking ''the Delegate to the House of Representatives,'' and inserting ''the Representative in Congress,''.

(B) In section 2 (sec. 1–1001.02, D.C. Official Code)—

(i) by striking paragraph (6); and

(ii) in paragraph (13), by striking ''the Delegate to Congress for the District of Columbia,'' and inserting ''the Representative in Congress,''.

(C) In section 8 (sec. 1–1001.08, D.C. Official Code)—

(i) in the heading, by striking ''Delegate'' and inserting ''Representative''; and

(ii) by striking ''Delegate,'' each place it appears in subsections (h)(1)(A), (i)(1), and (j)(1) and inserting ''Representative in Congress,''.

(D) In section 10 (sec. 1–1001.10, D.C. Official Code)—

(i) in subsection (a)(3)(A)—

(I) by striking ''or section 206(a) of the District of Columbia Delegate Act''; and

(II) by striking ''the office of Delegate to the House of Representatives'' and inserting ''the office of Representative in Congress'';

(ii) in subsection (d)(1), by striking ''Delegate,'' each place it appears; and

(iii) in subsection (d)(2)—

(I) by striking ''(A) In the event'' and all that follows through ''term of office,'' and inserting ''In the event that a vacancy occurs in the office of Representative in Congress before May 1 of the last year of the Representative's term of office,''; and

(II) by striking subparagraph (B).

(E) In section 11(a)(2) (sec. 1–1001.11(a)(2), D.C. Official Code), by striking ''Delegate to the House of Representatives,'' and inserting ''Representative in Congress,''.

(F) In section 15(b) (sec. 1–1001.15(b), D.C. Official Code), by striking ''Delegate,'' and inserting ''Representative in Congress,''.

(G) In section 17(a) (sec. 1–1001.17(a), D.C. Official Code), by striking ''the Delegate to Congress from the District of Columbia'' and inserting ''the Representative in Congress''.

(b) REPEAL OF OFFICE OF STATEHOOD REPRESENTATIVE.—

(1) IN GENERAL.—Section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979 (sec. 1–123, D.C. Official Code) is amended as follows:

(A) By striking ''offices of Senator and Representative'' each place it appears in subsection (d) and inserting ''office of Senator''.

(B) In subsection (d)(2)—

(i) by striking ''a Representative or'';

(ii) by striking ''the Representative or''; and

(iii) by striking ''Representative shall be elected for a 2-year term and each''.

(C) In subsection (d)(3)(A), by striking ''and 1 United States Representative''.

(D) By striking ''Representative or'' each place it appears in subsections (e), (f), (g), and (h).

(E) By striking ''Representative's or'' each place it appears in subsections (g) and (h).

(2) CONFORMING AMENDMENTS.—

(A) STATEHOOD COMMISSION.—Section 6 of such Initiative (sec. 1–125, D.C. Official Code) is amended—

(i) in subsection (a)—

(I) by striking ''27 voting members'' and inserting ''26 voting members'';

(II) by adding ''and'' at the end of paragraph (5); and

(III) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6); and

(ii) in subsection (a–1)(1), by striking subparagraph (H).

(B) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of such Initiative (sec. 1–127, D.C. Official Code) is amended by striking ''and House''.

(C) APPLICATION OF HONORARIA LIMITATIONS.—Section 4 of D.C. Law 8–135 (sec. 1–131, D.C. Official Code) is amended by striking ''or Representative'' each place it appears.

(D) APPLICATION OF CAMPAIGN FINANCE LAWS.—Section 3 of the Statehood Convention Procedural Amendments Act of 1982 (sec. 1–135, D.C. Official Code) is amended by striking ''and United States Representative''.

(E) DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended—

(i) in section 2(13) (sec. 1–1001.02(13), D.C. Official Code), by striking ''United States Senator and Representative,'' and inserting ''United States Senator,''; and

(ii) in section 10(d) (sec. 1–1001.10(d)(3), D.C. Official Code), by striking ''United States Representative or''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(c) CONFORMING AMENDMENTS REGARDING APPOINTMENTS TO SERVICE ACADEMIES.—

(1) UNITED STATES MILITARY ACADEMY.—Section 4342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(2) UNITED STATES NAVAL ACADEMY.—Such title is amended—

(A) in section 6954(a), by striking paragraph (5); and

(B) in section 6958(b), by striking ''the District of Columbia,''.

(3) UNITED STATES AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

**SEC. 6. NONSEVERABILITY OF PROVISIONS AND NONAPPLICABILITY.**

(a) NONSEVERABILITY.—If any provision of this Act or any amendment made by this Act is declared or held invalid or unenforceable, the remaining provisions of this Act or any amendment made by this Act shall be treated and deemed invalid and shall have no force or effect of law.

(b) NONAPPLICABILITY.—Nothing in the Act shall be construed to affect the first reapportionment occurring after the regular decennial census conducted for 2010 if this Act has not taken effect.

**SEC. 7. JUDICIAL REVIEW.**

If any action is brought to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

Mr. HATCH. Mr. President, as I did in the last Congress, I am cosponsoring the legislation introduced today by the Senator from Connecticut to provide a House seat for the District of Columbia and an additional House seat for Utah.

Representation and suffrage are so central to the American system of self-government that America's founders warned that limiting suffrage would risk another revolution and could prevent ratification of the Constitution. The Supreme Court has said that no right is more precious in a free country than having a voice in the election of those who govern us. I continue to believe what I stated more than 30 years ago here on the Senate floor, that Americans living in the District should enjoy all the privileges of citizenship, including voting rights.

The bill introduced today would treat the District of Columbia as a congressional district to provide for full representation in the House. The bill states, however, that the District shall not be treated as a State for representation in this body.

No matter how worthwhile or even compelling an objective might be, however, we cannot legislatively pursue it without authority grounded in the Constitution. I would note that the Constitution explicitly gives Congress legislative authority over the District ''in all cases whatsoever.'' This authority is unparalleled in scope and has been called sweeping, plenary, and extraordinary by the courts. It surpasses both the authority a State legislature has over its own State and the authority Congress has over legislation affecting the States.

Some have argued that despite the centrality of representation and suffrage, and notwithstanding our unparalleled and plenary authority over the District, that Congress cannot provide a House seat for the District by legislation. They base their argument on a single word. Article I, Section 5, of the Constitution provides that the House of Representatives shall be composed of members chosen by the people of the several States. Because the District is not a State, the argument goes, it cannot have a House seat without a constitutional amendment,

I studied this issue extensively and published my analysis and conclusions in the Harvard Journal on Legislation for everyone to consider. I ask unanimous consent that this article be made part of the RECORD following my remarks. Let me here just mention a few considerations that I found persuasive.

First, as I have already mentioned, the default position of our system of government is representation and suffrage. That principle is so fundamental that, in this case, I believe there must be actual evidence that America's founders intended to deny it to District residents, No such evidence exists.

Second, establishing and maintaining the District as a separate political jurisdiction does not require disenfranchising its residents. The

founders wanted the capital to be free from State control and I support keeping it that way. Giving the District a House seat changes neither that status nor Congress' legislative authority over the District.

Third, America's founders not only did not intend to disenfranchise District residents, they demonstrated the opposite intention by their own legislative actions. In 1790, Congress provided by legislation for Americans living in the land ceded for the District to vote in congressional elections. No one even suggested that this legislation was unconstitutional because that land was not part of a State. If Congress could do it then, Congress can do it today.

Fourth, courts have held for more than two centuries that constitutional provisions framed in terms of States can be applied to the District or that Congress can legislatively accomplish for the District what the Constitution accomplishes for States. Congress, for example, has authority to regulate commerce among the several States. The Supreme Court held in 1889 that this applies to the District. Do opponents of giving the District a House seat believe Congress cannot regulate commerce involving the District?

The original Constitution provided that direct taxes shall be apportioned among the several States. The Supreme Court held in 1820 that Congress' legislative authority over the District allows taxation of the District. Do opponents of giving the District a House seat believe that the District is suitable for taxation but not for representation?

The Constitution provides that federal courts may review lawsuits between citizens of different States. The Supreme Court held in 1805 that Congress can legislatively extend this to the District even though the Constitution does not.

The list goes on involving provisions of the Constitution, statues, and even treaties. Over and over, courts have ruled either that provisions framed in terms of States can be directly applied to the District or that Congress can legislatively do so. Perhaps opponents of giving the District a House seat believe that all of these decisions over more than two centuries were wrong, that the word States begins and ends the discussion in every case. They cannot say so in the present case without confronting those precedents.

These and other considerations which I discussed in the article I mentioned have led me to conclude that the Constitution allows Congress legislatively to provide a House seat for the District. I do want to repeat my continuing opposition to District representation in the Senate. The District's status as a non-State jurisdiction is not relevant to representation in the House, which was designed to represent people, but it is relevant to representation in the Senate, which was designed to represent states. I would once again emphasize that the bill introduced today explicitly disclaims Senate representation for the District.

In December 2006, I signed a letter to the majority and minority leaders expressing the same position I had taken three decades earlier. It stated that while there are many differences between Utah and the District, to be sure, they share the right to be represented in our country's legislature. I take the same position today, believing that Congress may and should pass the bill introduced today to provide for that representation.

Mr. LEAHY. Mr. President, I am proud to cosponsor the District of Columbia House Voting Rights Act of 2009 to end the unfair treatment of District of Columbia residents and give them voting representation in the House of Representatives. For over 200 hundred years, the residents of the District of Columbia have been denied a voting Member representing their views in Congress. That is wrong, and I hope the Senate will consider this important issue early this year to remedy the disenfranchisement that residents of our Nation's capital have endured.

When the Senate considered this legislation last Congress the Republican minority chose to filibuster the bill. While a majority favored it, we fell short of the 60 votes needed to end the filibuster and pass it. Earlier that year, however, the House of Representatives worked in a bipartisan manner to pass a version of a voting rights bill for the District of Columbia led by Congresswoman ELEANOR HOLMES NORTON. As a young lawyer, she worked for civil rights and voting rights around the country. It is a cruel irony that upon her return to the District of Columbia, and her election to the House of Representatives, she does not yet have the right to vote on behalf of the people of the District of Columbia who elected her. She is a strong voice in Congress, but the citizens living in the Nation's capital deserve a vote, as well.

The bill introduced today would give the District of Columbia delegate a vote in the House. It would give Utah a fourth seat in the House as well. Last Congress, the Judiciary Committee held hearings on a similar measure and we heard compelling testimony from constitutional experts. They testified that this legislation is constitutional, and highlighted the fact that Congress's greater power to confer statehood on the District certainly contains the lesser one, the power to grant District residents voting rights in the House of Representatives. Congress has repeatedly treated the District of Columbia as a ''State'' for various purposes. Congresswoman ELEANOR HOLMES NORTON testified that although ''the District is not a State,'' the ''Congress has not had the slightest difficulty in treating the District as a State, with its laws, its treaties, and for constitutional purposes.'' Examples of these actions include a revision of the Judiciary Act of 1789 that broadened Article III diversity jurisdiction to include citizens of the District even though the Constitution only provides that Federal courts may hear cases ''between citizens of different States.'' Congress has also treated the District as a ''State'' for purposes of congressional power to regulate commerce ''among the several States.'' The Sixteenth Amendment grants Congress the power to directly tax incomes ''without apportionment among the several States,'' but has been interpreted also to apply to residents of the District. In fact, the District of Columbia pays the second highest Federal taxes per capita without any say in how those dollars are spent.

I believe that this legislation is within Congress's powers as provided in the Constitution. I agree with Congressman JOHN LEWIS, Congresswoman NORTON and numerous other civil rights leaders and constitutional scholars that we should extend the basic right of voting representation to the hundreds of thousands of Americans residing in the District of Columbia. These Americans pay Federal taxes, defend our country in the military and serve on Federal juries.

This is an historic measure that holds great significance within the civil rights community and for the residents of the District of Columbia. I urge Senators to do what is right and to support this bill when it comes to the floor for full Senate consideration.

Over 50 years ago, the Senate overrode filibusters to pass the Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965. Congressman LEWIS, a courageous leader during those transformational struggles decades ago, gave moving testimony before the Senate Judiciary Committee last Congress in which he reminded us that ''we in Congress must do all we can to inspire a new generation to fulfill the mission of equal justice.'' The Senate should continue to fight for the fundamental rights of all Americans and stand united in serving this noble purpose. No person's right to vote should be abridged, suppressed or denied in the United States of America. Let us move forward together and provide full voting rights for the citizens in our Nation's capital.

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By Mr. FEINGOLD (for himself, Mr. MCCAIN, Mrs. MCCASKILL, Mr. GRAHAM, and Mr. COBURN.)

S. 162. A bill to provide greater accountability of taxpayers' dollars by curtailing congressional earmarking, and for other purposes; to the Committee on Rules and Administration.

Mr. FEINGOLD. Mr. President, I am pleased to join with the senior Senator from Arizona, Mr. MCCAIN, the junior Senator from Missouri, Mrs. MCCASKILL, the junior Senator from Oklahoma, Mr. COBURN, and the senior Senator from South Carolina, Mr. GRAHAM, in introducing the Fiscal Discipline, Earmark Reform, and Accountability Act of 2009. Senator MCCAIN has been one of the preeminent champions

of earmark reform, and I have been pleased to work with him in fighting this abuse over the last two decades. Senators MCCASKILL and COBURN, though newer to the Senate, have been two of the most effective advocates of earmark reform since taking office. And Senator GRAHAM has been a courageous champion of reform as well, and during consideration of the Lobbying and Ethics Reform measure in the 110th Congress was a critical vote in helping to strengthen the earmark provisions of that legislation.

That measure was the most significant earmark reform Congress has ever enacted, and it reflected a growing recognition by Members that the business-as-usual days of using earmarks to avoid the scrutiny of the authorizing process or of competitive grants are coming to an end. It is no accident that the presidential nominees of the two major parties were major players on that reform package.

Mr. President, it would be a mistake not to acknowledge just how far we have come. The Lobbying and Ethics Reform bill was an enormous step forward, and I commend our Majority Leader, Senator REID, as well as our former colleague from Illinois, President-elect Obama, for their work in ensuring the passage of that landmark bill.

But it would also be a mistake not to admit that we still have a way to go. The Fiscal Discipline, Earmark Reform, and Accountability Act of 2009 will build on the significant achievement of the 110th Congress by moving from what has largely been a system designed to dissuade the use of earmarks through disclosure to one that actually makes it much more difficult to enact them.

The principal provision of this measure is the establishment of a point of order against unauthorized earmarks on appropriations bills. To overcome that point of order, supporters of the unauthorized earmark will need to obtain a super-majority of the Senate. As a further deterrent, the bill provides that any earmarked funding which is successfully stricken from the appropriations bill will be unavailable for other spending in that bill.

The measure also closes a loophole in last year's Lobbying and Ethics Reform bill by requiring all appropriations conference reports and all authorizing conference reports to be electronically searchable 48 hours before the Senate considers the conference report. And it requires all recipients of federal funds to disclose any money spent on registered lobbyists.

I am delighted that President-elect Obama has announced that the expected economic recovery package which may be proposed in the next few days should be kept free of earmarks. I couldn't agree more, and I expect to join with Senators MCCAIN, MCCASKILL, GRAHAM, and COBURN to see that the recovery package is free of unauthorized earmarks.

In the past, this urgently needed measure was just the kind of legislation that typically attracted unauthorized earmarks. We are much more likely to be successful in keeping that package and other appropriations bills free of earmarks if we are able to use the tools proposed in this legislation.

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

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

S. 162

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Fiscal Discipline, Earmark Reform, and Accountability Act''.

**SEC. 2. REFORM OF CONSIDERATION OF APPROPRIATIONS BILLS IN THE SENATE.**

(a) IN GENERAL.—Rule XVI of the Standing Rules of the Senate is amended by adding at the end the following:

''9.(a) On a point of order made by any Senator:

''(1) No new or general legislation nor any unauthorized appropriation may be included in any general appropriation bill.

''(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

''(3) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

''(b)(1) If a point of order under subparagraph (a)(1) against a Senate bill or amendment is sustained—

''(A) the new or general legislation or unauthorized appropriation shall be struck from the bill or amendment; and

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill or amendment shall be made.

''(2) If a point of order under subparagraph (a)(1) against an Act of the House of Representatives is sustained when the Senate is not considering an amendment in the nature of a substitute, an amendment to the House bill is deemed to have been adopted that—

''(A) strikes the new or general legislation or unauthorized appropriation from the bill; and

''(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill;

''(c) If the point of order against an amendment under subparagraph (a)(2) is sustained, the amendment shall be out of order and may not be considered.

''(d)(1) If a point of order under subparagraph (a)(3) against a Senate amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the amendment;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made; and

''(C) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the amendment as so modified.

''(2) If a point of order under subparagraph (a)(3) against a House of Representatives amendment is sustained—

''(A) an amendment to the House amendment is deemed to have been adopted that—

''(i) strikes the new or general legislation or unauthorized appropriation from the House amendment; and

''(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment; and

''(B) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

''(e) The disposition of a point of order made under any other paragraph of this rule, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subparagraph (a) with respect to the same matter.

''(f) A point of order under subparagraph (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(g) Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill or an amendment between the Houses on a general appropriation bill violate subparagraph (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subparagraph (f), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(h) For purposes of this paragraph:

''(1) The term 'new or general legislation' has the meaning given that term when it is used in paragraph 2 of this rule.

''(2) The term 'new matter' means matter not committed to conference by either House of Congress.

''(3)(A) The term 'unauthorized appropriation' means a 'congressionally directed spending item' as defined in rule XLIV—

''(i) that is not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

''(ii) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

''(B) An appropriation is not specifically authorized if it is restricted or directed to, or authorized to be obligated or expended for the benefit of, an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by

name or description, in a manner that is so restricted, directed, or authorized that it applies only to a single identifiable person, program, project, entity, or jurisdiction, unless the identifiable person, program, project, entity, or jurisdiction to which the restriction, direction, or authorization applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law) that specifically provides for the restriction, direction, or authorization of appropriation for such person, program, project, entity, or jurisdiction.

''10. (a) On a point of order made by any Senator, no new or general legislation, nor any unauthorized appropriation, new matter, or nongermane matter may be included in any conference report on a general appropriation bill.

''(b) If the point of order against a conference report under subparagraph (a) is sustained—

''(1) the new or general legislation, unauthorized appropriation, new matter, or nongermane matter in such conference report shall be deemed to have been struck;

''(2) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made;

''(3) when all other points of order under this paragraph have been disposed of—

''(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated);

''(B) the question shall be debatable; and

''(C) no further amendment shall be in order; and

''(4) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

''(c) The disposition of a point of order made under any other paragraph of this rule, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subparagraph (a) with respect to the same matter.

''(d) A point of order under subparagraph (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(e) Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a conference report on a general appropriation bill violate subparagraph (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subparagraph (d), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(f) For purposes of this paragraph:

''(1) The terms 'new or general legislation', 'new matter', and 'unauthorized appropriation' have the same meaning as in paragraph 9.

''(2) The term 'nongermane matter' has the same meaning as in rule XXII and under the precedents attendant thereto, as of the beginning of the 110th Congress.''.

(b) REQUIRING CONFERENCE REPORTS TO BE SEARCHABLE ONLINE.—Paragraph 3(a)(2) of rule XLIV of the Standing Rules of the Senate is amended by inserting ''in an searchable format'' after ''available''.

**SEC. 3. LOBBYING ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.**

The Lobbying Disclosure Act of 1995 is amended by adding after section 5 the following:

**''SEC. 5A. REPORTS BY RECIPIENTS OF FEDERAL FUNDS.**

''(a) IN GENERAL.—A recipient of Federal funds shall file a report as required by section 5(a) containing—

''(1) the name of any lobbyist registered under this Act to whom the recipient paid money to lobby on behalf of the Federal funding received by the recipient; and

''(2) the amount of money paid as described in paragraph (1).

''(b) DEFINITION.—In this section, the term 'recipient of Federal funds' means the recipient of Federal funds constituting an award, grant, or loan.''.

Mr. MCCAIN. Mr. President, I am proud to again be joining forces with my good friend and colleague from Wisconsin, Senator FEINGOLD, to introduce a comprehensive earmark reform measure. We are also pleased to be joined by Senators MCCASKILL, GRAHAM, and COBURN as cosponsors in this effort. The measure we are introducing today is designed to eliminate unauthorized earmarks and wasteful spending in appropriations bills and conference reports and help restore fiscal discipline to Washington. Specifically, this bill would allow any member to raise a point of order in an effort to extract objectionable unauthorized provisions. Additionally, it contains a requirement that all appropriations and authorization conference reports be electronically searchable at least 48 hours before full Senate consideration, and a requirement that the recipients of Federal dollars disclose any amounts that they spend on registered lobbyists. These are reasonable, responsible reform measures that deserve consideration by the full Senate.

Our current economic situation and our vital national security concerns require that now, more than ever, we prioritize our Federal spending. But our appropriations bills do not always put our national priorities first. The process is broken and it needs to be fixed. As we enter the second year of a recession, the economy is in shambles. Record numbers of homeowners face foreclosure, our financial markets have nearly collapsed, and the U.S. automobile manufacturers are near ruin. The national unemployment rate stands at 6.7 percent—the highest in 15 years—with over 1.9 million people having lost their jobs last year.

In the last year alone, due to the mortgage crisis, the Government has seized control of Fannie Mae and Freddie Mac. Congress passed a massive $700 billion rescue of the financial markets, and we've debated giving the big-three auto manufacturers tens of billions in taxpayer dollars—just as a ''short-term'' infusion of cash—knowing that they'd be back for more. Additionally, we're getting ready to consider an economic stimulus package which is estimated to cost as much as $850 billion to a trillion dollars. With all of this spending, we can no longer afford to waste even a single dime of taxpayer money.

It is abundantly clear that the time has come for us to eliminate the corrupt, wasteful practice of earmarking. We have made some progress on the issue in the past couple of years, but we have not gone far enough. Legislation we passed in 2007 provided for greater disclosure of earmarks. While that was a good step forward, the bottom line is that we don't simply need more disclosure of earmarks—we need to eliminate them.

As my colleagues are well aware, for years I have been coming to the Senate floor to read list after list of the ridiculous items we've spent money on—hoping enough embarrassment might spur some change. And year after year I would offer amendment after amendment to strip pork barrel projects from spending bills—usually only getting a handful of votes each time.

Finally, I was encouraged in January 2007 when this body passed, by a vote of 96–2, an ethics and lobbying reform package which contained real, meaningful earmark reform. I thought that, at last, we would finally enact some effective reforms. Unfortunately, that victory was short lived. In August 2007, we were presented with a bill containing very watered down earmark provisions. Not only did that bill, S. 1, do far too little to rein in wasteful spending—it completely gutted the earmark reform provisions we passed overwhelmingly the previous January.

Earmarks, Mr. President, are like a cancer. Left unchecked, they have grown out of control—increasing by nearly 400 percent since 1994. And just as cancer destroys tissue and vital organs, the corruption associated with the process of earmarking is destroying what is vital to our strength as a nation—that is the faith and trust of the American people in their elected representatives and in the institutions of their government.

Not long ago, in the House of Representatives, when another member questioned the necessity of one of his earmarked projects, a Congressman raged at the idea of someone challenging what he described as ''my

money, my money.'' Therein lies the problem, Mr. President. Too many Members of Congress view taxpayers, funds as their own. They feel free to spend it as they see fit, with no oversight and, often, no shame. Look at some of the things we've funded over the years: $225,000 for an Historic Wagon Museum in Utah, $1 million for a DNA study of bears in Montana, $200,000 for the Rock and Roll Hall of Fame in Ohio, $220,000 for blueberry research at the University of Maine, $3 million for an animal waste management research facility in Kentucky, $170,000 for blackbird management in Kansas, $196,000 for geese control in New York, $50,000 for feral hog control in Missouri, $90,000 for the National Cowgirl Museum and Hall of Fame in Fort Worth, Texas, $200,000 for an American White Pelican survey, $6 million for sugarcane growers in Hawaii, $13 million for a ewe lamb retention program, $500,000 to study flight attendant fatigue, $200,000 for a deer avoidance system in Pennsylvania and New York, $3 million for the production of a documentary about Alaska, $1 million for a waterless urinal initiative, $500,000 for a Teapot museum in North Carolina, $1.1 million to research the use of Alaskan salmon in baby food, $25 million for a fish hatchery in Montana, $37 million over four years to the Alaska Fisheries Marketing Board to ''promote and develop fishery products and research pertaining to American fisheries.'' So how exactly does this Board spend the money Congress so generously earmarks every year? Well, they spent $500,000 of it to paint a giant salmon on the side of an Alaska Airlines 747—and nicknamed it the ''Salmon Forty Salmon.''

Unfortunately, I could go on and on with examples of wasteful earmarks that have been approved by Congress. And we wonder why our approval rating stands at 20 percent.

The corruption which stems from the practice of earmarking has resulted in current and former Members of both the House and Senate either under investigation, under indictment, or in prison. Let's be clear—it wasn't inadequate lobbyist disclosure requirements which led Duke Cunningham to violate his oath of office and take $2.5 million in bribes in exchange for doling out $70–$80 million of the taxpayer's funds to a defense contractor. It was his ability to freely earmark taxpayer funds without question.

We cannot allow this to continue. Now is the time to put a stop to this corrupt practice. The bill we are introducing today seeks to reform the current system by empowering all Members with a tool to rid appropriations bills of unauthorized funds, pork barrel projects, and legislative policy riders and to provide greater public disclosure of the legislative process.

We, as Members, owe it to the American people to conduct ourselves in a way that reinforces, rather than diminishes, the public's faith and confidence in Congress. An informed citizenry is essential to a thriving democracy. A democratic government operates best in the disinfecting light of the public eye. By seriously addressing the corrupting influence of earmarks, we will allow Members to legislate with the imperative that our Government must be free from corrupting influences, both real and perceived. We must act now to ensure that the erosion we see today in the public's confidence in Congress does not become a collapse of confidence. We can, and we must, end the practice of earmarking.

Again, I thank my friend and colleague from Wisconsin for his strong leadership on this issue, and I encourage the Senate act quickly to approve this measure.

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By Mr. REID:

S.J. Res. 3. A joint resolution ensuring that the compensation and other emoluments attached to the office of Secretary of the Interior are those which were in effect on January 1, 2005; considered and passed.

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

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

S.J. RES. 3

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. COMPENSATION AND OTHER EMOLUMENTS ATTACHED TO THE OFFICE OF SECRETARY OF THE INTERIOR.**

(a) IN GENERAL.—The compensation and other emoluments attached to the office of Secretary of the Interior shall be those in effect January 1, 2005, notwithstanding any increase in such compensation or emoluments after that date under any provision of law, or provision which has the force and effect of law, that is enacted or becomes effective during the period beginning at noon of January 3, 2005, and ending at noon of January 3, 2011.

(b) CIVIL ACTION AND APPEAL.—

(1) JURISDICTION.—Any person aggrieved by an action of the Secretary of the Interior may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the Secretary of the Interior on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such a civil action, without regard to the sum or value of the matter in controversy.

(2) THREE JUDGE PANEL.—Any claim challenging the constitutionality of the appointment and continuance in office of the Secretary of the Interior on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution, in an action brought under paragraph (1) shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. It shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection.

(3) APPEAL.—

(A) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order upon the validity of the appointment and continuance in office of the Secretary of the Interior under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered.

(B) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken under subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

(c) EFFECTIVE DATE.—This joint resolution shall take effect at 12:00 p.m. on January 20, 2009.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 1—INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF EACH HOUSE IS ASSEMBLED

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 1

*Resolved,* That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

### SENATE RESOLUTION 2—INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 2

*Resolved,* That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

### SENATE RESOLUTION 3—FIXING THE HOUR OF DAILY MEETING OF THE SENATE

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 3

*Resolved*, That the daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.