farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 577

At the request of Ms. COLLINS, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 577, a bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities.

S. 829

At the request of Mr. GRASSLEY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 829, a bill to allow media coverage of court proceedings.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1262

At the request of Mr. FRIST, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1262, a bill to reduce healthcare costs, improve efficiency, and improve healthcare quality through the development of a nationwide interoperable health information technology system, and for other purposes.

S. 1568

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1568, a bill to enhance the ability of community banks to foster economic growth and serve their communities, and for other purposes.

S. 2123

At the request of Mr. ALLARD, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2123, a bill to modernize the manufactured housing loan insurance program under title I of the National Housing Act.

S. 2172

At the request of Ms. LANDRIEU, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2172, a bill to provide for response to Hurricane Katrina by establishing a Louisiana Recovery Corporation, providing for housing and community rebuilding, and for other purposes.

S. 2283

At the request of Mr. FRIST, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2283, a bill to establish a congressional commemorative medal for organ donors and their families.

S. RES. 372

At the request of Mr. KERRY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 372, a resolution expressing the sense of the Senate that oil and gas companies should not be provided outer Continental Shelf royalty relief when energy prices are at historic highs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself and Mr. LOTT):

S. 2287. A bill to amend the Internal Revenue Code of 1986 to increase and permanently extend the expensing of certain depreciable business assets for small businesses; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce legislation that allows small businesses to expense more of their equipment and business assets, which will create incentives to invest in new technology, expand their operations, and most important, create jobs. Small businesses are the engine that drives our Nation's economy and I believe this bill strengthens their ability to lead the way. I am pleased to join my colleague from Mississippi, Senator TRENT LOTT, as we work to move this important initiative for small businesses from legislation to law.

As the Chair of the Senate Committee on Small Business and Entrepreneurship, I drafted this bill in response to the repeated requests from small businesses in my State of Maine and from across the Nation to allow them to expense more of their investments like the purchase of essential new equipment. The bill modifies the Internal Revenue Code and would double the amount a small business can expense from $100,000 to $200,000, and make the provision permanent as President Bush also proposed this change in his fiscal year 2007 tax proposals. With small businesses representing 99 percent of all employers, creating 75 percent of net new jobs and contributing 51 percent of private-sector output, their size is the only 'small' aspect about them.

By doubling and making permanent the current expensing limit and indexing these amounts for inflation, this bill will achieve two important objectives. First, qualifying businesses will be able to write off more of the equipment purchases today, instead of waiting five, seven or more years to recover their costs through depreciation. That represents substantial savings both in dollars and in the time small businesses would otherwise have to spend complying with complex and confusing depreciation rules. Moreover, new equipment will 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, as a result of this bill, more businesses will qualify for this benefit because the phase-out limit will be increased to $800,000 in new assets purchases. At the same time, small business capital investment will be pumping more money into the economy. Accordingly, this is a win-win for small business and the economy as a whole.

This legislation is a tremendous opportunity to help small enterprises succeed by providing an incentive for reinvestment and leaving them more of their earnings to do just that. I urge my colleagues to join me in supporting this vital legislation as we work with the President to enact this investment incentive into law.

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

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

S. 2287

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

SECTION 1. INCREASE AND PERMANENT EXTENSION FOR EXPENSING FOR SMALL BUSINESS.

(a) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended by striking ''$25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2008)'' and inserting ''$200,000''.

(b) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) of such Code (relating to reduction in limitation) is amended by striking ''$200,000 ($400,000 in the case of taxable years beginning after 2002 and before 2008)'' and inserting ''$800,000''.

(c) INFLATION ADJUSTMENTS.—Section 179(b)(5)(A) of such Code (relating to inflation adjustments) is amended—

(1) in the matter preceding clause (i)—

(A) by striking ''after 2003 and before 2008'' and inserting ''after 2007'', and

(B) by striking ''the $100,000 and $400,000 amounts'' and inserting ''the $200,000 and $800,000 amounts'', and

(2) in clause (ii), by striking ''calendar year 2002'' and inserting ''calendar year 2006''.

(d) REVOCATION OF ELECTION.—Section 179(c)(2) of such Code (relating to election irrevocable) is amended to read as follows:

''(2) REVOCABILITY OF ELECTION.—Any election made under this section, and any specification contained in any such election, may be revoked by the taxpayer with respect to any property, and such revocation, once made, shall be irrevocable.''.

(e) OFF-THE-SHELF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) of such Code (relating to section 179 property) is amended by striking ''and before 2008''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

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

S. 2288. A bill to modernize water resources planning, and for other purposes; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, today I introduce the Water Resources Planning and Modernization Act of 2006, a bill that will bring our water resources policy into the 21st century. I am pleased to be joined in this legislation by the senior Senator from Arizona, Mr. MCCAIN. We have worked together for some time to modernize the Army

Corps of Engineers and I thank Senator MCCAIN for his continued commitment to this issue.

While the bill I introduce today builds on previous bills we have introduced, it also reflects a recognition that we must respond to the tragic events of the recent past and make thoughtful and needed adjustments to all aspects of water resources planning. The entire process, starting with the principles upon which the plans are developed all the way to discussions of where we invest limited Federal resources, requires attention and revision. Congress cannot afford to authorize additional Army Corps projects until it has considered and passed the Water Resources Planning and Modernization Act. From ensuring large projects are sound to using natural resources to protect our communities, modernizing water resources policy is a national priority.

As we all know, our nation is staring down deficits that just a few years ago were unimaginable. Our current financial situation demands pragmatic approaches and creative collaborations to save taxpayer dollars. The bill I introduce today provides a unique opportunity to endorse such approaches and such collaborations.

The Water Resources Planning and Modernization Act of 2006 represents a sensible effort to increase our environmental stewardship and significantly reduce the government waste inherent in poorly designed or low priority Army Corps of Engineers projects. It represents a way to both protect the environment and save taxpayer dollars. With support from Taxpayers for Common Sense Action, National Taxpayers Union, Citizens Against Government Waste, American Rivers, National Wildlife Federation, Earthjustice, Environmental Defense, Republicans for Environmental Protection, Sierra Club, and the World Wildlife Fund, the bill has the backing of a strong, creative coalition.

Several years have passed since I tried to offer an amendment to the Water Resources Development Act of 2000 to require independent review of Army Corps of Engineers' projects. Much has changed since the 2000 debate, and yet too much remains the same. We now have more studies from the National Academy of Sciences, the Government Accountability Office, and others—even the presidentially appointed U.S. Commission on Ocean Policy—to point to in support of our efforts. We have also had a disaster of historic proportion. Hurricane Katrina highlighted problems that we would be irresponsible to ignore.

The Water Resources Planning and Modernization Act of 2006 can be broadly divided into five parts: focusing our resources, identifying vulnerabilities, updating the Army Corps of Engineer's planning guidelines, guaranteeing sound projects and responsible spending, and valuing our natural resources.

Our current prioritization process is not serving the public good. To address this problem, the bill reinvigorates the Water Resources Council, originally established in 1965, and charges it with providing Congress a prioritized list of authorized water resource projects within one year of enactment and then every two years following. The prioritized list would also be printed in the Federal register for the public to see. The Water Resources Council described in the bill, comprised of cabinet-level officials, would bring together varied perspectives to shape a list of national needs. In short, the prioritization process would be improved to make sure Congress has the tools to more wisely invest limited resources while also increasing public transparency in decision making both needed and reasonable improvements to the status quo.

Taking stock of our vulnerabilities to natural disasters must also be a priority. For this reason, the bill also directs the Water Resources Council to identify and report to Congress on the Nation's vulnerability to flood and related storm damage, including the risk to human life and property, and relative risks to different regions of the country. The Water Resources Council would also recommend improvements to the Nation's various flood damage reduction programs to better address those risks. Many of these improvements were discussed in a government report following the 1993 floods so the building blocks are available; we just need to update the assessment. Then, of course, we must actually take action based on the assessment. To help speed such action, the legislation specifies that the administration will submit a response to Congress, including legislative proposals to implement the recommendations, on the Water Resources Council report no later than 90 days after the report has been made public. We cannot afford to have this report, which will outline improvements to our flood damage reduction programs, languish like others before it.

The process by which the Army Corps of Engineers analyzes water projects should undergo periodic revision. Unfortunately, the corps' principles and guidelines, which bind the planning process, have not been updated since 1983. This is why the bill requires that the Water Resources Council work in coordination with the National Academy of Sciences to propose periodic revisions to the corps' planning principles and guidelines, regulations, and circulars.

Updating the project planning process should involve consideration of a variety of issues, including the use of modern economic analysis and the same discount rates as used by all other Federal agencies. Simple steps such as these will lead to more precise estimates of project costs and benefits, a first step to considering whether a project should move forward.

To ensure that corps' water resources projects are sound, the bill requires independent review of those projects estimated to cost over $25 million, those requested by a Governor of an affected State, those which the head of a Federal agency has determined may lead to a significant adverse impact, or those that the Secretary of the Army has found to be controversial. As crafted in the bill, independent review should not increase the length of time required for project planning but would protect the public both those in the vicinity of massive projects and those whose tax dollars are funding projects.

We must do a better job of valuing our natural resources, such as wetlands, that provide important services. These resources can help to buffer communities from storms and filter contaminants out of our water. Recognizing the role of these natural systems, the Water Resources Planning and Modernization Act of 2006 requires that corps' water resources projects meet the same mitigation standard as required by everyone else under the Clean Water Act. Where States have adopted stronger mitigation standards, the corps must meet those standards. I feel very strongly that the Federal government should be able to live up to this requirement. Unfortunately, all too often, the corps has not completed required mitigation. This legislation will make sure that mitigation is completed, that the true costs of mitigation are accounted for in corps' projects, and that the public is able to track the progress of mitigation projects.

Modernizing all aspects of our water resources policy will help restore credibility to a Federal agency historically rocked by scandal and currently plagued by public skepticism. Congress has long used the Army Corps of Engineers to facilitate favored pork-barrel projects, while periodically expressing a desire to change its ways. Back in 1836, a House Ways and Means Committee report referred to Congress ensuring that the corps sought ''actual reform, in the further prosecution of public works.'' Over 150 years later, the need for actual reform is stronger than ever.

My office has strong working relationships with the Detroit, Rock Island, and St. Paul District Offices that service Wisconsin, and I do not want this bill to be misconstrued as reflecting on the work of those district offices. What I do want is the fiscal and management cloud over the entire Army Corps to dissipate so that the corps can continue to contribute to our environment and our economy without wasting taxpayer dollars.

I wish the changes we are proposing today were not needed, but unfortunately that is not the case. In fact, if there were ever a need for the bill, it is now. We must make sure that future corps' projects produce predicted benefits, are in furtherance of national priorities, and do not have negative environmental impacts. This bill gives the corps the tools it needs to a better job and focuses the attention of Congress

on national needs, which is what the American taxpayers and the environment deserve.

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. 2288

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 ''Water Resources Planning and Modernization Act of 2006''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term ''Council'' means the Water Resources Council established under section 101 of the Water Resources Planning Act (42 U.S.C. 1962a).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

SEC. 3. NATIONAL WATER RESOURCES PLANNING AND MODERNIZATION POLICY.

It is the policy of the United States that all water resources projects carried out by the Corps of Engineers shall—

(1) reflect national priorities for flood damage reduction, navigation, and ecosystem restoration; and

(2) seek to avoid the unwise use of floodplains, minimize vulnerabilities in any case in which a floodplain must be used, protect and restore the extent and functions of natural systems, and mitigate any unavoidable damage to natural systems.

SEC. 4. MEETING THE NATION'S WATER RESOURCE PRIORITIES.

(a) REPORT ON THE NATION'S FLOOD RISKS.—Not later than 18 months after the date of enactment of this Act, the Council shall submit to the President and Congress a report describing the vulnerability of the United States to damage from flooding and related storm damage, including the risk to human life, the risk to property, and the comparative risks faced by different regions of the country. The report shall assess the extent to which the Nation's programs relating to flooding are addressing flood risk reduction priorities and the extent to which those programs may unintentionally be encouraging development and economic activity in floodprone areas, and shall provide recommendations for improving those programs in reducing and responding to flood risks. Not later than 90 days after the report required by this subsection is published in the Federal Register, the Administration shall submit to Congress a report that responds to the recommendations of the Council and includes proposals to implement recommendations of the Council.

(b) PRIORITIZATION OF WATER RESOURCES PROJECTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Council shall submit to Congress an initial report containing a prioritized list of each water resources project of the Corps of Engineers that is not being carried out under a continuing authorities program, categorized by project type and recommendations with respect to a process to compare all water resources projects across project type. The Council shall submit to Congress a prioritized list of water resources projects of the Corps of Engineers every 2 years following submission of the initial report. In preparing the prioritization of projects, the Council shall endeavor to balance stability in the rankings from year to year with recognizing newly authorized projects. Each report prepared under this paragraph shall provide documentation and description of any criteria used in addition to those set forth in paragraph (2) for comparing water resources projects and the assumptions upon which those criteria are based.

(2) PROJECT PRIORITIZATION CRITERIA.—In preparing a report under paragraph (1), the Council shall prioritize each water resource project of the Corps of Engineers based on the extent to which the project meets at least the following criteria:

(A) For flood damage reduction projects, the extent to which such a project—

(i) addresses the most critical flood damage reduction needs of the United States as identified by the Council;

(ii) does not encourage new development or intensified economic activity in flood prone areas and avoids adverse environmental impacts; and

(iii) provides significantly increased benefits to the United States through the protection of human life, property, economic activity, or ecosystem services.

(B) For navigation projects, the extent to which such a project—

(i) produces a net economic benefit to the United States based on a high level of certainty that any projected trends upon which the project is based will be realized;

(ii) addresses priority navigation needs of the United States identified through comprehensive, regional port planning; and

(iii) minimizes adverse environmental impacts.

(C) For environmental restoration projects, the extent to which such a project—

(i) restores the natural hydrologic processes and spatial extent of an aquatic habitat;

(ii) is self-sustaining; and

(iii) is cost-effective or produces economic benefits.

(3) SENSE OF CONGRESS.—It is the sense of Congress that to promote effective prioritization of water resources projects, no project should be authorized for construction unless a final Chief's report recommending construction has been submitted to Congress, and annual appropriations for the Corps of Engineers' Continuing Authorities Programs should be distributed by the Corps of Engineers to those projects with the highest degree of design merit and the greatest degree of need, consistent with the applicable criteria established under paragraph (2).

(c) MODERNIZING WATER RESOURCES PLANNING GUIDELINES.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, the Council, in coordination with the National Academy of Sciences, shall propose revisions to the planning principles and guidelines, regulations, and circulars of the Corps of Engineers to improve the process by which the Corps of Engineers analyzes and evaluates water projects.

(2) PUBLIC PARTICIPATION.—The Council shall solicit public and expert comment and testimony regarding proposed revisions and shall subject proposed revisions to public notice and comment.

(3) REVISIONS.—Revisions proposed by the Council shall improve water resources project planning through, among other things—

(A) focusing Federal dollars on the highest water resources priorities of the United States;

(B) requiring the use of modern economic principles and analytical techniques, credible schedules for project construction, and current discount rates as used by all other Federal agencies;

(C) discouraging any project that induces new development or intensified economic activity in flood prone areas, and eliminating biases and disincentives to providing projects to low-income communities, including fully accounting for the prevention of loss of life as required by section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281);

(D) eliminating biases and disincentives that discourage the use of nonstructural approaches to water resources development and management, and fully accounting for the flood protection and other values of healthy natural systems;

(E) utilizing a comprehensive, regional approach to port planning;

(F) promoting environmental restoration projects that reestablish natural processes;

(G) analyzing and incorporating lessons learned from recent studies of Corps of Engineers programs and recent disasters such as Hurricane Katrina and the Great Midwest Flood of 1993; and

(H) ensuring the effective implementation of the National Water Resources Planning and Modernization Policy established by this Act.

(d) REVISION OF PLANNING GUIDELINES.—Not later than 180 days after submission of the proposed revisions required by subsection (b), the Secretary shall implement the recommendations of the Council by incorporating the proposed revisions into the planning principles and guidelines, regulations, and circulars of the Corps of Engineers. These revisions shall be subject to public notice and comment pursuant to subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act''). Effective beginning on the date on which the Secretary carries out the first revision under this paragraph, the Corps of Engineers shall not be subject to—

(1) subsections (a) and (b) of section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–17); and

(2) any provision of the guidelines entitled ''Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies'' and dated 1983, to the extent that such a provision conflicts with a guideline revised by the Secretary.

(e) AVAILABILITY.—Each report prepared under this section shall be published in the Federal Register and submitted to the Committees on Environment and Public Works and Appropriations of the Senate and the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives.

(f) WATER RESOURCES COUNCIL.—Section 101 of the Water Resources Planning Act (42 U.S.C. 1962a) is amended in the first sentence by inserting ''the Secretary of Homeland Security, the Chairperson of the Council on Environmental Quality,'' after ''Secretary of Transportation,''.

(g) FUNDING.—In carrying out this section, the Council shall use funds made available for the general operating expenses of the Corps of Engineers.

SEC. 5. EFFECTIVE PROJECT PLANNING.

(a) DEFINITIONS.—In this section:

(1) AFFECTED STATE.—The term ''affected State'' means a State that is located, in whole or in part, within the drainage basin in which a water resources project is carried out and that would be economically or environmentally affected as a result of the project.

(2) DIRECTOR.—The term ''Director'' means the Director of Independent Review appointed under subsection (c).

(3) STUDY.—The term ''study'' means a feasibility report, general reevaluation report,

or environmental impact statement prepared by the Corps of Engineers.

(b) PROJECTS SUBJECT TO INDEPENDENT REVIEW.—

(1) IN GENERAL.—The Secretary shall ensure that each study for each water resources project described in paragraph (2) is subject to review by an independent panel of experts established under this section.

(2) PROJECTS SUBJECT TO REVIEW.—A water resources project shall be subject to review under this section if—

(A) the project has an estimated total cost of more than $25,000,000, including mitigation costs;

(B) the Governor of an affected State requests in writing to the Secretary the establishment of an independent panel of experts for the project;

(C) the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse impact on cultural, environmental, or other resources under the jurisdiction of the agency, and requests in writing to the Secretary the establishment of an independent panel of experts for the project; or

(D) the Secretary determines that the project is controversial based upon a finding that—

(i) there is a significant dispute regarding the size, nature, or effects of the project;

(ii) there is a significant dispute regarding the economic or environmental costs or benefits of the project; or

(iii) there is a significant dispute regarding the potential benefits to communities affected by the project of a project alternative that was not fully considered in the study.

(3) WRITTEN REQUESTS.—Not later than 30 days after the date on which the Secretary receives a written request of any party, or on the initiative of the Secretary, the Secretary shall determine whether a project is controversial.

(c) DIRECTOR OF INDEPENDENT REVIEW.—

(1) IN GENERAL.—The Inspector General of the Army shall appoint in the Office of the Inspector General of the Army a Director of Independent Review. The term of a Director appointed under this subsection shall be 6 years, and an individual may serve as the Director for not more than 2 nonconsecutive terms.

(2) QUALIFICATIONS.—The Inspector General of the Army shall select the Director from among individuals who are distinguished experts in engineering, hydrology, biology, economics, or another discipline relating to water resources management. The Inspector General of the Army shall not appoint an individual to serve as the Director if the individual has a financial interest in or close professional association with any entity with a financial interest in a water resources project that, on the date of appointment of the Director, is under construction, in the preconstruction engineering and design phase, or under feasibility or reconnaissance study by the Corps of Engineers. The Inspector General of the Army may establish additional criteria if necessary to avoid a conflict of interest between the individual appointed as Director and the projects subject to review.

(3) DUTIES.—The Director shall establish a panel of experts to review each water resources project that is subject to review under subsection (b).

(d) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.—Not later than 90 days before the release of a draft study subject to review under subsection (b)(2)(A), and not later than 30 days after a determination that a review is necessary under subparagraph (B), (C), or (D) of subsection (b)(2), the Director shall establish a panel of experts to review the draft study. Panels may be convened earlier on the request of the Chief of Engineers.

(2) MEMBERSHIP.—A panel of experts established by the Director for a project shall be composed of not less than 5 nor more than 9 independent experts (including 1 or more engineers, hydrologists, biologists, and economists) who represent a range of areas of expertise.

(3) LIMITATION ON APPOINTMENTS.—The Director shall apply the National Academy of Science's policy for selecting committee members to ensure that members of a review panel have no conflict with the project being reviewed.

(4) CONSULTATION.—The Director shall consult with the National Academy of Sciences in developing lists of individuals to serve on panels of experts under this section.

(5) NOTIFICATION.—To ensure that the Director is able to effectively carry out the duties of the Director under this section, the Secretary shall notify the Director in writing not later than 120 days before the release of a draft study for a project costing more than $25,000,000 or for which a preliminary assessment suggests that a panel of experts may be required.

(6) COMPENSATION.—An individual serving on a panel of experts under this section shall be compensated at a rate of pay to be determined by the Inspector General of the Army.

(7) TRAVEL EXPENSES.—A member of a panel of experts under this section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the panel.

(e) DUTIES OF PANELS.—A panel of experts established for a water resources project under this section shall—

(1) review each draft study prepared for the project;

(2) assess the adequacy of the economic, scientific, and environmental models used by the Secretary in reviewing the project and assess whether the best available economic and scientific data and methods of analysis have been used;

(3) assess the extent to which the study complies with the National Water Resources Planning and Modernization Policy established by this Act;

(4) evaluate the engineering assumptions and plans for any flood control structure whose failure could result in significant flooding;

(5) receive from the public written and oral comments concerning the project;

(6) submit an Independent Review Report to the Secretary that addresses the economic, engineering, and environmental analyses of the project, including the conclusions of the panel, with particular emphasis on areas of public controversy, with respect to the study; and

(7) submit a Final Assessment Report to the Secretary that briefly provides the views of the panel on the extent to which the final study prepared by the Corps adequately addresses issues or concerns raised by the panel in the Independent Review Report.

(f) DEADLINES FOR PANEL REPORTS.—A panel shall submit its Independent Review Report under subsection (e)(6) to the Secretary not later than 90 days after the close of the public comment period or not later than 180 days after the panel is convened, whichever is later. A panel shall submit its Final Assessment Report under subsection (e)(7) to the Secretary not later than 30 days after release of the final study. The Director may extend these deadlines for good cause shown.

(g) RECOMMENDATIONS OF PANEL.—

(1) CONSIDERATION BY SECRETARY.—If the Secretary receives an Independent Review Report on a water resources project from a panel of experts under subsection (e)(6), the Secretary shall, at least 30 days before releasing a final study for the project, take into consideration any recommendations contained in the report, prepare a written explanation for any recommendations not adopted, and make such written explanations available to the public, including through posting on the Internet.

(2) INCONSISTENT RECOMMENDATIONS AND FINDINGS.—Recommendations and findings of the Secretary that are inconsistent with the recommendations and findings of a panel of experts under this section shall not be entitled to deference in a judicial proceeding.

(3) SUBMISSION TO CONGRESS AND PUBLIC AVAILABILITY.—After receiving an Independent Review Report under subsection (e)(6) or a Final Assessment Report under subsection (e)(7), the Secretary shall immediately make a copy of the report available to the public. The Secretary also shall immediately make available to the public any written response by the Secretary prepared pursuant to paragraph (1). Copies of all independent review panel reports and all written responses by the Secretary also shall be included in any report submitted to Congress concerning the project.

(h) RECORD OF DECISION.—The Secretary shall not issue a record of decision or a report of the Chief of Engineers for a water resources project subject to review under this section until, at the earliest, 14 days after the deadline for submission of the Final Assessment Report required under subsection (e)(7).

(i) PUBLIC ACCESS TO INFORMATION.—The Secretary shall ensure that information relating to the analysis of any water resources project by the Corps of Engineers, including all supporting data, analytical documents, and information that the Corps of Engineers has considered in the justification for and analysis of the project, is made available to the public on the Internet and to an independent review panel, if a panel is established for the project. The Secretary shall not make information available under this paragraph if the Secretary determines that the information is a trade secret of any person that provided the information to the Corps of Engineers.

(j) COSTS OF REVIEW.—

(1) IN GENERAL.—The cost of conducting a review of a water resources project under this section shall not exceed—

(A) $250,000 for a project, if the total cost of the project in current year dollars is less than $50,000,000; and

(B) 0.5 percent of the total cost of the project in current year dollars, if the total cost is $50,000,000 or more.

(2) WAIVER.—The Secretary may waive these cost limitations if the Secretary determines that the waiver is appropriate.

(k) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a panel of experts established under this section.

SEC. 6. MITIGATION.

(a) MITIGATION.—Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) in paragraph (1), by striking ''to the Congress'' and inserting ''to Congress, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment,'', and by inserting in the second sentence ''and other habitat types'' after ''bottomland hardwood forests''; and

(2) by adding at the end the following:

''(3) MITIGATION REQUIREMENTS.—

''(A) MITIGATION.—To mitigate losses to flood damage reduction capabilities and fish and wildlife resulting from a water resources project, the Secretary shall ensure that mitigation for each water resources project complies fully with the mitigation standards and policies established by each State in which the project is located. Under no circumstances shall the mitigation required for a water resources project be less than would be required of a private party or other entity under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

''(B) MITIGATION PLAN.—The specific mitigation plan for a water resources project required under paragraph (1) shall include, at a minimum—

''(i) a detailed plan to monitor mitigation implementation and ecological success, including the designation of the entities that will be responsible for monitoring;

''(ii) specific ecological success criteria by which the mitigation will be evaluated and determined to be successful, prepared in consultation with the Director of the United States Fish and Wildlife Service or the Director of the National Marine Fisheries Service, as appropriate, and each State in which the project is located;

''(iii) a detailed description of the land and interests in land to be acquired for mitigation, and the basis for a determination that land and interests are available for acquisition;

''(iv) sufficient detail regarding the chosen mitigation sites, and types and amount of restoration activities to be conducted, to permit a thorough evaluation of the likelihood of the ecological success and aquatic and terrestrial resource functions and habitat values that will result from the plan; and

''(v) a contingency plan for taking corrective actions if monitoring demonstrates that mitigation efforts are not achieving ecological success as described in the ecological success criteria.

''(4) DETERMINATION OF MITIGATION SUCCESS.—

''(A) IN GENERAL.—Mitigation under this subsection shall be considered to be successful at the time at which monitoring demonstrates that the mitigation has met the ecological success criteria established in the mitigation plan.

''(B) EVALUATION AND REPORTING.—The Secretary shall consult annually with the Director of the United States Fish and Wildlife Service and the Director of the National Marine Fisheries Service, as appropriate, and each State in which the project is located, on each water resources project requiring mitigation to determine whether mitigation monitoring for that project demonstrates that the project is achieving, or has achieved, ecological success. Not later than 60 days after the date of completion of the annual consultation, the Director of the United States Fish and Wildlife Service or the Director of the National Marine Fisheries Service, as appropriate, shall, and each State in which the project is located may, submit to the Secretary a report that describes—

''(i) the ecological success of the mitigation as of the date of the report;

''(ii) the likelihood that the mitigation will achieve ecological success, as defined in the mitigation plan;

''(iii) the projected timeline for achieving that success; and

''(iv) any recommendations for improving the likelihood of success.

The Secretary shall respond in writing to the substance and recommendations contained in such reports not later than 30 days after the date of receipt. Mitigation monitoring shall continue until it has been demonstrated that the mitigation has met the ecological success criteria.''.

(b) MITIGATION TRACKING SYSTEM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a recordkeeping system to track, for each water resources project constructed, operated, or maintained by the Secretary and for each permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344)—

(A) the quantity and type of wetland and other habitat types affected by the project, project operation, or permitted activity;

(B) the quantity and type of mitigation required for the project, project operation, or permitted activity;

(C) the quantity and type of mitigation that has been completed for the project, project operation, or permitted activity; and

(D) the status of monitoring for the mitigation carried out for the project, project operation, or permitted activity.

(2) REQUIRED INFORMATION AND ORGANIZATION.—The recordkeeping system shall—

(A) include information on impacts and mitigation described in paragraph (1) that occur after December 31, 1969; and

(B) be organized by watershed, project, permit application, and zip code.

(3) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public on the Internet.

SEC. 7. PROJECT ADMINISTRATION.

(a) CHIEF'S REPORTS.—The Chief of Engineers shall not submit a Chief's report to Congress recommending construction of a water resources project until that Chief's report has been reviewed and approved by the Secretary of the Army.

(b) PROJECT TRACKING.—The Secretary shall assign a unique tracking number to each water resources project, to be used by each Federal agency throughout the life of the project.

(c) REPORT REPOSITORY.—The Secretary shall maintain at the Library of Congress a copy of each final feasibility study, final environmental impact statement, final reevaluation report, record of decision, and report to Congress prepared by the Corps of Engineers. These documents shall be made available to the public for review, and electronic copies of those documents shall be permanently available, through the Internet website of the Corps of Engineers.

Mr. MCCAIN. Mr. President, I am pleased to join with Senator FEINGOLD in introducing the Water Resources Planning and Modernization Act of 2006. This legislation is designed to take a post-Katrina approach to Army Corps of Engineers projects. It would provide for a more effective system for selecting and funding Army Corps projects that help to protect our citizens against damage caused by floods, hurricanes and other natural disasters.

Last August this Nation witnessed a horrible national disaster. When Hurricane Katrina hit, it brought with it destruction and tragedy beyond compare; more so than our Nation has seen in decades. Some six months later, the Gulf Coast region is still largely in the early stages of attempting to rebuild and recover and there is a long road ahead. As our Nation continues to dedicate significant resources to the reconstruction effort, we must be vigilant in our oversight obligations and take appropriate actions based on the many lessons learned from this tragedy.

One area that most would agree deserves needed attention concerns the Army Corps system. Funding is distributed in a manner that is not always awarded the most urgent projects. Because of this, citizens can end up paying for unnecessary and irresponsible Army Corps projects with their tax dollars and their safety. It is time for us to take a new approach to how the Army Corps does business. With lessons learned from Katrina, we can and must shepherd in a new era within the Army Corps that prioritizes critical projects and allows the American taxpayers to know that their money is being spent in an effective and efficient manner.

The Water Resources Planning and Modernization Act is the only Corps related measure that has been introduced in the Senate since Katrina tragically struck that truly takes a lessons-learned approach. Any measure acted upon by this Congress regarding the Corps simply must account for the most up to date information available. We owe it to the American public.

Historically, Congress has considered water projects costing many billions of taxpayer dollars as essential expenditures—regardless of the environmental costs or public benefits. That is why the modernization procedures in this bill are designed to achieve more critical and cost-effective expenditures for Corps water projects that will yield more environmental, economic, and social benefits. The need for these changes has been acknowledged by many for some time, but never has the need to spend scarce taxpayer dollars wisely been as crucial as it is now.

The Corps procedures for planning and approving projects, as well as the Congressional system for funding projects, are broken, but they can be fixed. The reforms in our bill are based on thorough program analysis and common sense. I commend Senator FEINGOLD for his efforts to build on and improve upon the legislation we have previously introduced. Corps modernization has been a priority that Senator FEINGOLD and I have shared for years but never before has there been such an appropriate atmosphere and urgent need to move forward on these overdue reforms.

Provisions of the legislation we are introducing today provide for a process to modify and modernize the Corps planning and approval procedures to consider economic, public, and environmental objectives. Independent review of Corps projects and a clear national prioritization of Corps projects would ensure that the most beneficial projects are constructed. Effective measures for mitigation of environmental and other damage caused by projects would be required and monitored.

With support from Taxpayers for Common Sense Action, National Taxpayers Union, Citizens Against Government Waste, American Rivers, National Wildlife Federation, Earthjustice, Environmental Defense,

Republicans for Environmental Protection, Sierra Club, and the World Wildlife Fund, the bill has broad interest and impact.

Water projects that provide economic and environmental benefits to our Nation's citizens—the hardworking American taxpayers—serve the common good and reflect our common interest in fiscal responsibility.

I urge my colleagues to support this legislation.

By Mr. BUNNING:

S. 2289. A bill to amend title XVIII of the Social Security Act to increase the per resident payment floor for direct graduate medical education payments under the Medicare program; to the Committee on Finance.

Mr. BUNNING. Mr. President, today I am introducing important legislation that will have an impact on many of the hospitals in my State, along with hundreds of hospitals in other States. This legislation deals specifically with the Medicare payments for Direct Graduate Medical Education—also known as DGME.

I am pleased that Congressman RON LEWIS from Kentucky's Second District is the lead sponsor of a companion bill already introduced in the House of Representatives.

Medicare pays teaching hospitals for its share of the cost of training new physicians. These payments are known as DGME payments. Teaching hospitals initially reported their direct costs to the Department of Health and Human Services in the mid-1980s. These reported amounts are now the basis for which each teaching hospital is reimbursed.

Unfortunately, there was a disparity in the types of costs each hospital reported, which has lead to large disparities in payments between hospitals. Hospitals are also being reimbursed on data that is 20 years old, at this point.

To help rectify this problem, in 1999 Congress established a floor for calculating Medicare payments for DGME at 70 percent of the national average. In 2001, Congress raised the floor to 85 percent of the national average.

The legislation I am introducing today would bring all of Medicare's DGME hospitals up 100 percent of the national average. This is an important change that would help many teaching hospitals in Kentucky and across the Nation be fairly reimbursed for training our young doctors.

For example, there are 19 hospitals in Kentucky that currently receive reimbursements below the national average. This means that Kentucky hospitals lose more than two million a year because of the lower reimbursement rate. Across the country, there are about 600 hospitals being reimbursed below the national average.

This legislation takes an important step to ensure that Medicare's payment policy for teaching hospitals are fair and that these institutions can continue to do the important work they do. I hope my colleagues will take a close look at the bill and can support it.

By Mr. PRYOR (for himself, Mr. WARNER, and Mr. TALENT):

S. 2290. A bill to provide for affordable natural gas by rebalancing domestic supply and demand and to promote the production of natural gas from domestic resources; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, I am privileged to rise with the distinguished Senator from Arkansas to introduce a bill today entitled the Reliable and Affordable Natural Gas Energy Reform Act of 2006

In September of 2005, at the time the Senate was examining a number of energy proposals under the distinguished chairmanship of Senator DOMENICI, I introduced a bill at that time quite similar to this one, although it included oil. This measure sticks to gas, and gas only, to enable the several States across our Nation to take such steps under State law, in combination with the Governors and the respective legislatures of the several States that desire to explore and the desire to drill for energy off their shores. That bill as yet is still on the docket.

Since that time I have had the great pleasure of joining my colleague from Arkansas to put this bill in. I am delighted that he indicated he would like to step forward and take the lead. I readily accede to that request.

So much of the concern about drilling offshore is understandably in—and I am not here to criticize—the environmental community. I think my colleague from Arkansas can help me eventually convince the environmental community that the time has come for offshore drilling.

Two things have occurred in the interim between the 1988 moratorium, namely advancement in technology so we can safely, by engineering, put the wells in; and the second is the ever-tightening noose around the citizens of the United States of America with regard to their energy sources. The third thing that is occurring is the growing competition for energy worldwide—India coming on with enormous consumption requirements, and China with even larger consumption requirements.

I think the time has come that the Congress begin to reexamine its old policies with regard to those lands offshore of our several States.

At this time, I yield the floor to my colleague from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, as the distinguished Senator from Virginia acknowledged, we have a problem when it comes to the high cost of natural gas. We feel strongly that this bill which we are cosponsoring can be part of the solution.

About one-quarter of all natural gas is used to produce electricity, but the rest is used to manufacture plastics that go into things such as cars, computers, and medical equipment. Fertilizer and pharmaceutical production is highly dependent on natural gas. In fact, for nitrogen fertilizer, a total of 93 percent of the production cost of that fertilizer is the component of natural gas.

The price of natural gas—which, by the way, is one-quarter of the energy of this country—has more than doubled in the past year and it is anticipated that over the next 20 years you will see a 40-percent increase for the usage and need of natural gas in the United States.

Another thing about natural gas that makes it very different than oil is natural gas is not easy to ship across oceans. Certainly there is some liquid natural gas technology out there, but a vast majority—all but a tiny fraction of the natural gas we use in this country—comes from United States wells, or comes out of Canada. We have a great reserve of natural gas, not only in the Continental United States, not only in Alaska, but also off our shores. Most notably, the one that most people are aware of is in the Gulf of Mexico.

Our legislation will allow the Secretary of the Interior to offer natural gas leases as part of the Outer Continental Shelf leasing program.

Let me say this: As Senator WARNER of Virginia said a few moments ago, we are referring only to natural gas. We have been very careful to make sure this bill does not include petroleum or oil.

I hope no one will be confused by an earlier draft because we included some references to oil, but we have very carefully taken all of those out of the bill. I think the bill is very clear on that point now, that this refers only to natural gas supply and exploration.

Mr. WARNER. Mr. President, will the Senator yield for a moment on that point?

Mr. PRYOR. Yes.

Mr. WARNER. Mr. President, we earlier distributed material which referred to oil which was in an earlier draft. I have been in contact with the environmental community, and so forth. It is clear to me at this point in time that we have in this bill just gas. My fervent hope and belief is that the environmental community will see the advancements in technology and the tremendous requirements of this country for natural gas, that we can restrict it to gas.

At a later time, if we are successful in proving that the natural gas can be drawn and is safe, which I am confident we can do, maybe due to world circumstances and domestic circumstances we could go back at that time and revisit the issue of oil.

I thank the Senator.

Mr. PRYOR. I thank the Senator.

Mr. President, another very important point, which is the essence of this legislation, goes to the moratorium on exploration of the Outer Continental Shelf. This bill allows that moratorium

to stay in place until the year 2012. It allows coastal States to, either out of that moratorium, if they so choose, or if after that moratorium expires, to opt into continuing that moratorium. It gives States, legislatures, Governors, State officials, elected officials, et cetera, the ability to control some of the things that are going on on their coastlines.

I think that is a very important point here because this could be a good revenue source for these States. It could be a good economic boom to some of these States. Certainly we have included revenue sharing, which I think is important to make this work.

I am very pleased that Senator WARNER and I have been able to work together and come up with what we think is a very commonsense solution, or at least part of a solution, to a very serious problem our country is facing.

Arkansas farmers—and I am sure it is true with most other States' farmers as well—had a difficult and disastrous year last year when it came to agriculture. One of the main reasons it has been so hard is their costs have gone up—the high cost of fertilizer and fuel. They use a lot of natural gas when it comes to drying grain, et cetera. The high cost of energy is killing our farmers, and it is certainly hurting our manufacturing sector as well.

The high price of natural gas is bad for the economy, but it is also bad for our energy security. That is one thing which I don't think we can overemphasize here today. I think it is critical that we have a high level of energy security for this country. I am proud to join my very distinguished colleague from Virginia to do our very best to offer a solution to help American families and help American businesses.

I yield the floor.

Mr. WARNER. Mr. President, our committee, under the leadership of Senator DOMENICI, is putting forward a proposal. I spoke with him today. This bill does not, in my judgment—and I hope he concurs eventually—conflict in any way with the objectives he is trying to achieve. He is a man who thinks forwardly and is so knowledgeable on the question of energy, the domestic situation here and the worldwide implication, and I think eventually he will be looking at something, and this may be a vehicle on which the Energy Committee will focus as they take the next step and begin to recognize the need to have some offshore drilling.

I thank my colleague on the Energy Committee.

I conclude my remarks by saying I am proud of the State of Virginia and its legislature. In the last session of the Virginia State legislature in the year 2005, both houses passed legislation authorizing precisely what we have here. In other words, let us go out and take a look at the shelf, find out what may or may not be off the coast of Virginia, and determine the accessibility and the feasibility and interest among industry to come and participate in the drilling.

But, unfortunately our former Governor—and I get along very well with Governor Warner—for reasons which he expressed, felt at this time the legislation shouldn't go forward in this session of the Virginia General Assembly. Again, the Senate stepped forward and passed legislation along the lines of what the General Assembly of Virginia did last year. It is my hope the House will do likewise, and that our new Governor, Governor Kaine, will take it under consideration, should both houses act—and hopefully they will act upon it favorably. Virginia is in a key location, and its citizens could benefit enormously if in fact earlier analysis of the shelf off of our State is confirmed as possessing resources of energy, namely natural gas.

I thank my colleague from Arkansas. He is a marvelous working partner. I look forward to working with him.

I yield the floor.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. HARKIN, and Mr. BINGAMAN):

S. 2291. A bill to provide for the establishment of a biodefense injury compensation program and to provide indemnification for producers of countermeasures; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to join Senator KENNEDY in introducing a bill, the Responsible Public Readiness and Emergency Preparedness Act, that will correct a grievous mistake made by some of my Republican colleagues. Our legislation will take responsible steps to protect the American people from one of the greatest threats facing our nation—a pandemic flu, bioterror attack or infectious disease outbreak.

Congress should have no higher priority than protecting the safety, security, and health of the American people. Public health experts have warned that a severe avian flu epidemic could lead to worldwide panic, cost millions of lives, and result in untold economic damage.

In order to prevent these dire projections from becoming a reality, we have no choice but to be prepared for such an event. One of the indispensable components of a biodefense plan is the availability of safe and effective vaccines and medicines. To achieve this goal, a biodefense plan must have two critical components. First, it must encourage drug companies to develop and manufacture effective medicines to counteract a disease or flu. Second, it must encourage first responders, health care workers, and ordinary citizens to take those medicines before, during, or after an attack or outbreak.

In December of last year, some of my Republican colleagues inserted language that contained neither of these critical components into the Department of Defense Appropriations conference report. This was done at the last minute, in the middle of the night, without the opportunity for discussion and debate, and without the knowledge or consent of many of the conferees.

Unfortunately, this Republican plan will do nothing to protect the American people. Rather than encouraging companies to make safe and effective medicines, it will provide a perverse incentive by protecting those companies that make ineffective or harmful products. And rather than encouraging Americans to be vaccinated or take a needed medication, it will discourage them from doing so by failing to provide guaranteed care for the few who will inevitably be injured by these products. Make no mistake about it; this plan will fail to protect our Nation.

I say this with confidence because we have been down this path before. Three years ago, the Bush administration launched a program to inoculate millions of first responders against smallpox. Ignoring public health experts, the administration failed to establish a compensation program to provide help to those injured by the vaccine. Doctors, nurses, firefighters and other first responders who would be on the front lines in the event of a smallpox attack by terrorists were not willing to roll the dice and risk the future of their families without compensation for their losses if they were injured, disabled, or even killed by its side effects. Most refused to participate, and the program was a failure.

On November 9 of last year, while testifying before the Senate Foreign Relations Committee, Dr. Julie Gerberding, the Director of the Centers for Disease Control and Prevention (CDC), was asked about the expected success of a biodefense plan that does not include fair compensation to people injured by the very medicines they thought would help them. She responded: ''Well, I certainly feel that from the standpoint of the smallpox vaccination program, that the absence of a compensation program that was acceptable to the people we were hoping to vaccinate was a major barrier—and I think we've learned some lessons from that.''

On November 20 of last year, while appearing on NBC's Meet the Press, Secretary of Health and Human Services Mike Leavitt said that along with limits on liability, ''adequate compensation . . . needs to be made for those who are hurt.''

Many groups representing the public health community and first responders, including the American Public Health Association, the American Nurses Association, and the American Federation of State, County, and Municipal Employees, have been outspoken about the need for a compensation program.

Yet despite our past experience, despite the position taken by those at high levels in the administration, and despite the warnings of those who would be on the front lines in the event of an outbreak, the Republican leadership in Congress included language in

the Defense Appropriations conference report that repeats the mistakes of the past, and endangers American lives. If and when we have a vaccine to protect against a pandemic flu, we must provide first responders with a reasonable assurance that it will be as safe as can reasonably be expected, and that they and their families will be taken care of should they be injured. This plan does not provide that assurance, and once again, first responders will refuse to participate.

Those who inserted this provision into the Conference Report during late night backroom negotiations claim that it includes compensation. But make no mistake—there is no guaranteed compensation in this bill. There is a provision to set up a compensation fund, but there is absolutely no guarantee that this fund will ever see a penny. The authors of this provision are claiming to take care of the injured, without providing any guarantee that it will ever happen. They are making an empty promise.

Not only will this plan fail to compensate those first responders and ordinary citizens injured or even killed by a vaccine, but it will also protect manufacturers even when they act with disregard for the safety of their products. This is an incredibly dangerous and inappropriate incentive. We should be encouraging manufacturers to make safe products, not protecting them when they make products that harm the American people.

Let me make it perfectly clear that I am not against the idea of providing limited liability protection for manufacturers in order to encourage the development of vaccines and medicines to protect the American people in the event of an outbreak or bioterror attack. But such liability protection must adhere to certain principles. First, it must not protect manufacturers that act with careless disregard for the safety and effectiveness of their product. And second, because even the safest vaccine will harm a small percentage of the people who take it, liability protection must be coupled with an adequate compensation program so that injured patients are properly cared for and not left destitute.

The legislation that Senator KENNEDY and I are introducing today adheres to these principles. It repeals the Republican provision passed in December, and replaces it with tried-and-true solutions that will encourage the production of vaccines and drugs without leaving patients to fend for themselves if they are injured. Our legislation will ensure that the reputable and responsible manufacturers of needed medicines—and the doctors, nurses, and hospitals who administer them in good faith—will be protected from frivolous lawsuits that might deter them from making and administering such medicines. But those injured by these medicines will be justly compensated for their injuries.

Congress has adopted this type of solution in the past. The compensation program established by our bill is modeled on one of those past successes—the Vaccine Injury Compensation Program (VICP). The VICP has successfully incentivized the manufacturers of recommended childhood vaccines, encouraged families to have their children vaccinated, and compensated those who are injured.

Senator KENNEDY and I spent several months last year negotiating with Senator ENZI, Senator BURR, Senator GREGG, Senator FRIST, and others on the Health, Education, Labor, and Pensions Committee to try to reach a bipartisan compromise on this issue. We made several proposals, modeled on past Congressional action, to protect manufacturers from frivolous lawsuits while providing fair and adequate compensation to those who are injured.

Unfortunately, the decision was made to forego this bipartisan process. Instead, a non-germane provision was inserted into a massive appropriations bill in the final hours of last session of Congress. Furthermore, it is my understanding that this language was inserted after members had signed the Conference Report, some doing so with the understanding that this language was not included. I am disturbed and disappointed by this blatant abuse of power and disregard for Senate procedures. I can only assume that the supporters of this provision used this tactic because they knew that their plan would not stand up to public scrutiny and Senate debate.

I am confident that if the Senate were to consider this issue carefully, we would choose to reject the failed policies of the past, and enact a policy that really protects the American people—a biodefense program that encourages manufacturers to make safe and effective vaccines and medicines, and provides compensation to those individuals who are injured by those vaccines and medicines.

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. 2291

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 ''Responsible Public Readiness and Emergency Preparedness Act''.

SEC. 2. REPEAL.

The Public Readiness and Emergency Preparedness Act (division C of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109-148)) is repealed.

SEC. 3. NATIONAL BIODEFENSE INJURY COMPENSATION PROGRAM.

(a) ESTABLISHMENT.—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding at the end the following:

''(q) BIODEFENSE INJURY COMPENSATION PROGRAM.—

''(1) ESTABLISHMENT.—There is established the Biodefense Injury Compensation Program (referred to in this subsection as the 'Compensation Program') under which compensation may be paid for death or any injury, illness, disability, or condition that is likely (based on best available evidence) to have been caused by the administration of a covered countermeasure to an individual pursuant to a declaration under subsection (p)(2).

''(2) ADMINISTRATION AND INTERPRETATION.—The statutory provisions governing the Compensation Program shall be administered and interpreted in consideration of the program goals described in paragraph (4)(B)(iii).

''(3) PROCEDURES AND STANDARDS.—The Secretary shall by regulation establish procedures and standards applicable to the Compensation Program that follow the procedures and standards applicable under the National Vaccine Injury Compensation Program established under section 2110, except that the regulations promulgated under this paragraph shall permit a person claiming injury or death related to the administration of any covered countermeasure to file either—

''(A) a civil action for relief under subsection (p); or

''(B) a petition for compensation under this subsection.

''(4) INJURY TABLE.—

''(A) INCLUSION.—For purposes of receiving compensation under the Compensation Program with respect to a countermeasure that is the subject of a declaration under subsection (p)(2), the Vaccine Injury Table under section 2114 shall be deemed to include death and the injuries, disabilities, illnesses, and conditions specified by the Secretary under subparagraph (B)(ii).

''(B) INJURIES, DISABILITIES, ILLNESSES, AND CONDITIONS.—

''(i) INSTITUTE OF MEDICINE.—Not later than 30 days after making a declaration described in subsection (p)(2), the Secretary shall enter into a contract with the Institute of Medicine, under which the Institute shall, within 180 days of the date on which the contract is entered into, and periodically thereafter as new information, including information derived from the monitoring of those who were administered the countermeasure, becomes available, provide its expert recommendations on the injuries, disabilities, illnesses, and conditions whose occurrence in one or more individuals are likely (based on best available evidence) to have been caused by the administration of a countermeasure that is the subject of the declaration.

''(ii) SPECIFICATION BY SECRETARY.—Not later than 30 days after the receipt of the expert recommendations described in clause (i), the Secretary shall, based on such recommendations, specify those injuries, disabilities, illnesses, and conditions deemed to be included in the Vaccine Injury Table under section 2114 for the purposes described in subparagraph (A).

''(iii) PROGRAM GOALS.—The Institute of Medicine, under the contract under clause (i), shall make such recommendations, the Secretary shall specify, under clause (ii), such injuries, disabilities, illnesses, and conditions, and claims under the Compensation Program under this subsection shall be processed and decided taking into account the following goals of such program:

''(I) To encourage persons to develop, manufacture, and distribute countermeasures, and to administer covered countermeasures to individuals, by limiting such persons' liability for damages related to death and such injuries, disabilities, illnesses, and conditions.

''(II) To encourage individuals to consent to the administration of a covered countermeasure by providing adequate and just compensation for damages related to death and such injuries, disabilities, illnesses, or conditions.

''(III) To provide individuals seeking compensation for damages related to the administration of a countermeasure with a non-adversarial administrative process for obtaining adequate and just compensation.

''(iv) USE OF BEST AVAILABLE EVIDENCE.—The Institute of Medicine, under the contract under clause (i), shall make such recommendations, the Secretary shall specify, under clause (ii), such injuries, disabilities, illnesses, and conditions, and claims under the Compensation Program under this subsection shall be processed and decided using the best available evidence, including information from adverse event reporting or other monitoring of those individuals who were administered the countermeasure, whether evidence from clinical trials or other scientific studies in humans is available.

''(v) APPLICATION OF SECTION 2115.—With respect to section 2115(a)(2) as applied for purposes of this subsection, an award for the estate of the deceased shall be—

''(I) if the deceased was under the age of 18, an amount equal to the amount that may be paid to a survivor or survivors as death benefits under the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.); or

''(II) if the deceased was 18 years of age or older, the greater of—

''(aa) the amount described in subclause (I); or

''(bb) the projected loss of employment income, except that the amount under this item may not exceed an amount equal to 400 percent of the amount that applies under item (aa).

''(vi) APPLICATION OF SECTION 2116.—Section 2116(b) shall apply to injuries, disabilities, illnesses, and conditions initially specified or revised by the Secretary under clause (ii), except that the exceptions contained in paragraphs (1) and (2) of such section shall not apply.

''(C) RULE OF CONSTRUCTION.—Section 13632 (a)(3) of Public Law 103–66 (107 Stat. 646) (making revisions by Secretary to the Vaccine Injury Table effective on the effective date of a corresponding tax) shall not be construed to apply to any revision to the Vaccine Injury Table made under regulations under this paragraph.

''(5) APPLICATION.—The Compensation Program applies to any death or injury, illness, disability, or condition that is likely (based on best available evidence) to have been caused by the administration of a covered countermeasure to an individual pursuant to a declaration under subsection (p)(2).

''(6) SPECIAL MASTERS.—

''(A) HIRING.—In accordance with section 2112, the judges of the United States Claims Court shall appoint a sufficient number of special masters to address claims for compensation under this subsection.

''(B) BUDGET AUTHORITY.—There are appropriated to carry out this subsection such sums as may be necessary for fiscal year 2006 and each fiscal year thereafter. This subparagraph constitutes budget authority in advance of appropriations and represents the obligation of the Federal Government.

''(7) COVERED COUNTERMEASURE.—For purposes of this subsection, the term 'covered countermeasure' has the meaning given to such term in subsection (p)(7)(A).

''(8) FUNDING.—Compensation made under the Compensation Program shall be made from the same source of funds as payments made under subsection (p).''.

(b) EFFECTIVE DATE.—This section shall take effect as of November 25, 2002 (the date of enactment of the Homeland Security Act of 2002 (Pub. L. 107–296; 116 Stat. 2135)).

SEC. 4. INDEMNIFICATION FOR MANUFACTURERS AND HEALTH CARE PROFESSIONALS WHO ADMINISTER MEDICAL PRODUCTS NEEDED FOR BIODEFENSE.

Section 224(p) of the Public Health Service Act (42 U.S.C. 233(p)) is amended—

(1) in the subsection heading by striking ''SMALLPOX'';

(2) in paragraph (1), by striking ''against smallpox'';

(3) in paragraph (2)—

(A) in the paragraph heading, by striking ''AGAINST SMALLPOX''; and

(B) in subparagraph (B), by striking clause (ii);

(4) by striking paragraph (3) and inserting the following:

''(3) EXCLUSIVITY; OFFSET.—

''(A) EXCLUSIVITY.—With respect to an individual to which this subsection applies, such individual may bring a claim for relief under—

''(i) this subsection;

''(ii) subsection (q); or

''(iii) part C.

''(B) ELECTION OF ALTERNATIVES.—An individual may only pursue one remedy under subparagraph (A) at any one time based on the same incident or series of incidents. An individual who elects to pursue the remedy under subsection (q) or part C may decline any compensation awarded with respect to such remedy and subsequently pursue the remedy provided for under this subsection. An individual who elects to pursue the remedy provided for under this subsection may not subsequently pursue the remedy provided for under subsection (q) or part C.

''(C) STATUTE OF LIMITATIONS.—For purposes of determining how much time has lapsed when applying statute of limitations requirements relating to remedies under subparagraph (A), any limitation of time for commencing an action, or filing an application, petition, or claim for such remedies, shall be deemed to have been suspended for the periods during which an individual pursues a remedy under such subparagraph.

''(D) OFFSET.—The value of all compensation and benefits provided under subsection (q) or part C of this title for an incident or series of incidents shall be offset against the amount of an award, compromise, or settlement of money damages in a claim or suit under this subsection based on the same incident or series of incidents.'';

(5) in paragraph (6)—

(A) in subparagraph (A), by inserting ''or under subsection (q) or part C'' after ''under this subsection''; and

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A), the following:

''(B) GROSSLY NEGLIGENT, RECKLESS, OR ILLEGAL CONDUCT AND WILLFUL MISCONDUCT.—For purposes of subparagraph (A), grossly negligent, reckless, or illegal conduct or willful misconduct shall include the administration by a qualified person of a covered countermeasure to an individual who was not within a category of individuals covered by a declaration under subsection (p)(2) with respect to such countermeasure where the qualified person fails to have had reasonable grounds to believe such individual was within such a category.''; and

(D) by adding at the end the following:

''(D) LIABILITY OF THE UNITED STATES.—The United States shall be liable under this subsection with respect to a claim arising out of the manufacture, distribution, or administration of a covered countermeasure regardless of whether—

''(i) the cause of action seeking compensation is alleged as negligence, strict liability, breach of warranty, failure to warn, or other action; or

''(ii) the covered countermeasure is designated as a qualified anti-terrorism technology under the SAFETY Act (6 U.S.C. 441 et seq.).

''(E) GOVERNING LAW.—Notwithstanding the provisions of section 1346(b)(1) and chapter 171 of title 28, United States Code, as they relate to governing law, the liability of the United States as provided in this subsection shall be in accordance with the law of the place of injury.

''(F) MILITARY PERSONNEL AND UNITED STATES CITIZENS OVERSEAS.—

''(i) MILITARY PERSONNEL.—The liability of the United States as provided in this subsection shall extend to claims brought by United States military personnel.

''(ii) CLAIMS ARISING IN A FOREIGN COUNTRY.—Notwithstanding the provisions of section 2680(k) of title 28, United States Code, the liability of the United States as provided for in the subsection shall extend to claims based on injuries arising in a foreign country where the injured party is a member of the United States military, is the spouse or child of a member of the United States military, or is a United States citizen.

''(iii) GOVERNING LAW.—With regard to all claims brought under clause (ii), and notwithstanding the provisions of section 1346(b)(1) and chapter 171 of title 28, United States Code, and of subparagraph (C), as they relate to governing law, the liability of the United States as provided in this subsection shall be in accordance with the law of the claimant's domicile in the United States or most recent domicile with the United States.''; and

(6) in paragraph (7)—

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

''(A) COVERED COUNTERMEASURE.—The term 'covered countermeasure', means—

''(i) a substance that is—

''(I)(aa) used to prevent or treat smallpox (including the vaccinia or another vaccine); or

''(bb) vaccinia immune globulin used to control or treat the adverse effects of vaccinia inoculation; and

''(II) specified in a declaration under paragraph (2); or

''(ii) a drug (as such term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act), biological product (as such term is defined in section 351(i) of this Act), or device (as such term is defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act) that—

''(I) the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent identified as a material threat under section 319F–2(c)(2)(A)(ii), or to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device against such an agent;

''(II) is—

''(aa) authorized for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act, so long as the manufacturer of such drug, biological product, or device has—

''(AA) made all reasonable efforts to obtain applicable approval, clearance, or licensure; and

''(BB) cooperated fully with the requirements of the Secretary under such section 564; or

''(bb) approved or licensed solely pursuant to the regulations under subpart I of part 314 or under subpart H of part 601 of title 21, Code of Federal Regulations (as in effect on the date of enactment of the National Biodefense Act of 2005); and

''(III) is specified in a declaration under paragraph (2).''; and

(B) in subparagraph (B)—

(i) by striking clause (ii), and inserting the following:

''(ii) a health care entity, a State, or a political subdivision of a State under whose auspices such countermeasure was administered;'' and

(vi) in clause (viii), by inserting before the period ''if such individual performs a function for which a person described in clause (i), (ii), or (iv) is a covered person''.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. CORNYN, Mr. CHAMBLISS, and Mrs. FEINSTEIN):

S. 2292. A bill to provide relief for the Federal judiciary from excessive rent charges; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition to speak in support of legislation, cosponsored by Senators LEAHY, CORNYN, CHAMBLISS, and FEINSTEIN, which I am introducing today to address a major problem affecting the Federal judiciary, specifically excessive rental charges by the General Services Administration for courthouses and other space occupied by the courts across the country. This legislation would prohibit the GSA from charging the Federal judiciary rent in excess of the actual costs incurred by GSA to maintain and operate Federal court buildings and related costs.

Unlike many other elements of the Federal Government, the judiciary is required to pay a large and ever-increasing portion of its budget as rent to another branch of government, the GSA. In fiscal terms, since 1986, the Federal courts' rental payments to GSA have increased from $133 million to $926 million in fiscal year 2005. This rental payment represents an increasing slice of the judiciary's relatively small overall budget. The percentage of the judiciary's operating budget devoted to rent payments has escalated from 15.7 percent in fiscal year 1986 to 22 percent in fiscal year 2005. By contrast, only three percent of the Department of Justice budget goes toward GSA rent, and the Executive Branch as a whole spends less than two-tenths of one percent of its budget on GSA rent.

In his 2005 Year-End report on the Federal Judiciary, Chief Justice John Roberts cited escalating GSA rents as one of the two serious threats to the independence of the Federal judiciary, the other being judges' pay. The increased rents, coupled with across-the-board cuts imposed during fiscal years 2004 and 2005, resulted in a reduction of approximately 1,500 judicial branch employees as of mid-December when compared to October 2003, and a 24-month moratorium on courthouse construction has been imposed.

On May 13, 2005, a bipartisan group of 11 Senators on the Judiciary Committee wrote to Stephen A. Perry, Administrator of GSA, to exercise his statutory authority to exempt the judiciary from rental payments in excess of those required to operating and maintaining Federal court buildings and related costs. On May 31, 2005, Mr. Perry wrote back and denied this sensible request. Mr. Perry referred to the judiciary as ''one of our largest and most valued tenants,'' but a more apt description would have been one of its most valued profit centers.

The judiciary paid $926 million to GSA in fiscal year 2005, but GSA's actual cost of providing space to the judiciary was only $426 million, a difference of $500 million. The judiciary in essence is being used as a profit center by GSA, which accomplishes this by charging for such fictitious costs as real estate tax which GSA does not in fact pay and forcing the judiciary to pay for buildings that have been fully amortized, not only once but several times.

This legislation provides a relatively modest and simple fix to this near crisis in the Federal judiciary, and I urge my colleagues to support it.

By Mr. ALLEN:

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution of the United States relative to require a balancing of the budget; to the Committee on the Judiciary.

Mr. ALLEN. Madam President, I rise to speak on a resolution regarding a constitutional amendment I am introducing today. It is the third part of my three-point plan to restore fiscal accountability and common sense to Washington. It is a resolution, in particular, to amend the Constitution to require a balanced Federal budget.

The continued growth in Government, coupled with our enormous deficit, make a balanced budget amendment a vital tool for bringing this fiscal house back in order and restraining the growing appetite of the Federal Government to take more money from the people in taxes, and this is money that is coming from families, working people, from men and women who run their own small businesses; and also when the Federal Government is taking more money, it means they can be meddling in more things that are best left to the people or the States—if Government needs to be involved at all.

The Federal Government ought to be paying attention and be focused on its key reasons for being created in the first place by the people in the States, and that is national defense—making sure the military is strong and that they have the most advanced equipment and armament for our men and women in uniform as they secure our freedom. We need a national missile defense system. Those are the sorts of things that are the primary responsibility of the Federal Government, as well as key research areas, whether it is in nanotechnology, aeronautics, or in other areas working with not just Federal agencies but the private sector and our colleges and universities.

As this Senate gets to work on the fiscal year 2007 budget, our country's fiscal discipline and accountability must be improved. We have a budget deficit not because the Federal Government has a revenue problem; it is because the Federal Government has a spending problem. The Government doesn't tax too little, it spends too much. We must focus our efforts on spending the people's money much smarter, not taking more of their money because it is convenient or expedient.

Now, to control spending, I have revived a pair of ideas that Ronald Reagan advocated when he was President. In Ronald Reagan's farewell address to the American people, he said there were two things he wished he had accomplished as President, and what he wanted future Presidents, both Republican and Democrat, to have. They were the line-item veto and a constitutional amendment to balance the budget.

As always, and so often, Ronald Reagan was right. That is why I have made the line-item veto and the balanced budget amendment the first two points of my three-point plan to bring fiscal accountability and responsibility to Washington.

Let's start first with the line-item veto. When I was honored by the people of Virginia as Governor of the Commonwealth of Virginia, I had the power of the line-item veto. I used it 17 times. I saw how useful a tool that was as Governor to knock out undesirable, nonessential spending, or untoward or undesirable policies. It is a power—the line-item veto—or an authority that actually 46 Governors in the U.S. enjoy. It is a very powerful tool to cut wasteful spending and undesirable programs. In fact, after you use it a few times, you don't have to use it as much, because the legislative branch understands that, gosh, he actually is going to use that power, and when it comes to the final budget or appropriations bills, the undesirable or wasteful programs or spending are not in it.

The President of the United States, in my view, should have the same power I had as Governor of Virginia, and that is the line-item veto. Together with Senator JIM TALENT of Missouri, last September we introduced a constitutional amendment to provide the President with line-item veto authority. It is high time for that. The reason we need a constitutional amendment is that there were times when we were trying do it statutorily. I would be in favor of statutory methods, rather than an amendment, but the Supreme Court struck down the last effort. I think the President, as well as the Congress, ought to be accountable for some of these spending items that create such controversy and are absurd or wasteful. By the way, we need to vote on this. If this goes to the States, I have no question that the States will

quickly ratify such a constitutional amendment because, after all, they give their Governors such power.

Secondly, we need a balanced budget amendment. This is something many States have, the Commonwealth of Virginia, and virtually the rest of the States. One of the best ways, in my view, to eliminate the Federal deficit and limit the size and scope of the Government is to wrestle it down with the chains of the Constitution.

I would also add that balancing the budget is not just a matter of making sure that expenditures are equal to revenue; it is about making sure the Federal Government fulfills its proper, focused, constitutional role—and not expanding into everything that is not necessarily a Federal prerogative, but best left to the people or the States. We all know that a big, bloated Federal Government stifles innovation, saps initiative, and reduces personal responsibility.

The third part of my plan is a proposal I offered last week, which I know won't be all that popular in this Chamber, but I think it will be much appreciated and understood by real people in the real world.

I have proposed legislation that provides a powerful incentive for Senators and Congressmen to perform their jobs on time, as people do in the private sector. We have a full-time legislature here and we go into session on January 3. One of our prime responsibilities is to pass appropriations bills before the next fiscal year, which is October 1. But it is, to me, deplorable that full-time legislators cannot get their job done on time by October 1. Then, of course, we end up with continuing resolutions, and several months later, some time after Thanksgiving but before Christmas, all kinds of unknown, unscrutinized spending occurs. It gets passed in the dead of night, thinking nobody will notice what is in all these appropriations bills—and actually a lot of people don't know what is in those appropriations bills.

That is why I want to impose on Congress what I call the ''paycheck penalty.'' The paycheck penalty says to Members of Congress, if you fail to pass all your appropriations measures by the start of the fiscal year, October 1, which is your job, what you are paid to do, your paychecks will be withheld until you complete your job.

Now, taken together, these three measures will eliminate the need to raise taxes to eliminate the deficit. The tax reductions enacted in the last 5 years have helped our country get out of recession. It has incented more investment, created many new jobs—in fact, 4.5 million new jobs—in the private sector; thereby, from all this economic growth and prosperity and more people working in businesses, large, medium, and small doing better, tax receipts to the Government have increased. To illustrate the point, from 2004 to 2005, tax receipts to the Federal Government grew at a rate of 14.5 percent, or $274 billion. This growth is more than twice the rate of economic growth. So the economic growth is strong, but the tax revenues are twice as much to the Federal Government. To further this point, the President's budget forecasts that tax revenues will grow an additional 6.1 percent, or $132 billion, from 2005 to 2006.

From the tax cuts of the Reagan administration to the tax cuts we passed in this new century, the fact is that lower taxes stimulate economic growth, stimulate job creation, and stimulate expansion, which in turn increases revenues to the Federal Government. More important, low taxes make this country more competitive for investment and jobs here, rather than people going to invest in places such as China or elsewhere in the world. When people are able to keep more of what they earn, they spend it, save it, invest it, they may expand their business, and they may get more innovative capital equipment, and the fact is lower taxes make this country more competitive and people more prosperous.

The opportunity created by Americans spending the fruits of their own labor, as opposed to the Government, is the path to bringing fiscal sanity to the Federal budget. So to avoid future pressure for counterproductive, harmful tax increases, and to achieve a balanced budget, we must make these dramatic changes in how the Federal Government spends the taxpayers' money: the line-item veto, balanced budget amendment, and the paycheck penalty for Members of Congress who have not done their jobs on time.

As we closed 2005, Madam President, the Federal Government was responsible for a gross Federal debt of $8.2 trillion. One must ask, how did we get here? Consider these statistics from the last 5 years: Federal spending has increased 33 percent. In 2005, the per-household spending by our Government has grown to $21,878 per year. That figure is compared to the per-household tax, on average, of $19,062 per year, leaving an annual per-household deficit of about $2,800. The macro result is an annual budget deficit in the hundreds of billions of dollars.

We are in a time of war, this war on terror, and enormous national disasters have also befallen our country in Louisiana, Alabama, Texas, and in Florida, in the past year. That is why I am introducing this resolution. Even when those occur, this amendment does require the Federal Government to achieve a balanced budget within 5 years of ratification by the States. Each year, the budget deficit would be reduced by 20 percent, until the Federal budget is balanced. This is a phased-in approach, which is realistic and provides needed time for Congress to amend the budget and appropriations processes to provide for a balanced budget. I fully understand that national and global events can significantly affect our country's budgetary needs. Thus, I have included a provision that allows for a waiver in the event of war. However, to ensure deficits resulting from a war do not continue in perpetuity, the provision provides for a 5-year window following the end of the conflict to reduce any deficits that may have accumulated.

Domestic catastrophes can also wreak havoc on the Federal Government's budget, as well as those of the States in Louisiana, Mississippi and, to some extent Florida, which we have recently seen devastated by hurricanes. To address such circumstances, the resolution also includes a provision that would allow expenditures in excess of revenues, provided three-fifths of each House of Congress approves, which I think Congress would have done in these situations if this were in effect last year and presently.

Now the risks of budget deficits and national debt are well known: the collapse of the dollar, a significant reduction in national savings, and the inability to fund programs vital to the Nation's security and well-being. It also means if you are putting in more and more tax revenues to finance the debt, there is less money there for key areas such as national defense, homeland security, education, research in science, and also engineering. So to prevent these events, we need an institutional mechanism to get this overspending under control.

Based on past performance, it will take, of course, a change in the Constitution. To paraphrase Thomas Jefferson, we need to bind the Congress with a change in the Constitution to prevent present Congresses from burdening future generations with perpetual debt.

I believe all of us, if we look at it seriously and responsibly, recognize and grasp the seriousness of this problem. I am hopeful that this Senate will be able to make the difficult choices to make sure that the next generation of Americans is not burdened with overwhelming debt or higher taxes from a burdensome, large Federal Government. A balanced budget amendment to the Constitution, I sincerely believe from my experiences as Governor of the Commonwealth of Virginia, will be a very valuable, useful, and effective tool in making that goal a reality. The same applies to the line-item veto authority for the President. I also believe very strongly that this Senate and the other body, the House, can get the appropriations bills done on time by October 1. If not, I think paychecks ought to be withheld until it is done.

So I hope that my colleagues recognize the seriousness, the importance, and the urgency of these responsible measures, these ideas. These measures include getting our fiscal house in order, protecting the taxpayers from tax increases in the future, and making sure this country is the world capital of innovation. These measures include investment by the private sector, more competitiveness compared to other

countries because of lower taxes, Federal regulatory policies, sound energy policy with more development and exploration here at home, as well as using clean coal and advanced nuclear and biofuels and new technologies. We also must make sure our fiscal house is in order for Americans to compete and succeed in the future.

I urge my colleagues to consider this resolution and join me in this effort for America's future.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2889. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill H.R. 32, to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks.

SA 2890. Mr. FRIST (for Ms. COLLINS) proposed an amendment to the bill S. 1777, to provide relief for the victims of Hurricane Katrina.

TEXT OF AMENDMENTS

SA 2889. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill H.R. 32, to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TRAFFICKING IN COUNTERFEIT MARKS.

(a) SHORT TITLE; FINDINGS.—

(1) SHORT TITLE.—This section may be cited as the ''Stop Counterfeiting in Manufactured Goods Act''.

(2) FINDINGS.—The Congress finds that—

(A) the United States economy is losing millions of dollars in tax revenue and tens of thousands of jobs because of the manufacture, distribution, and sale of counterfeit goods;

(B) the Bureau of Customs and Border Protection estimates that counterfeiting costs the United States $200 billion annually;

(C) counterfeit automobile parts, including brake pads, cost the auto industry alone billions of dollars in lost sales each year;

(D) counterfeit products have invaded numerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

(E) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

(F) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

(G) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger anticounterfeiting provisions in bilateral and international agreements with trading partners.

(b) TRAFFICKING IN COUNTERFEIT MARKS.—Section 2320 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after ''such goods or services'' the following: '', or intentionally traffics or attempts to traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,''.

(2) Subsection (b) is amended to read as follows:

''(b)(1) The following property shall be subject to forfeiture to the United States and no property right shall exist in such property:

''(A) Any article bearing or consisting of a counterfeit mark used in committing a violation of subsection (a).

''(B) Any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a).

''(2) The provisions of chapter 46 of this title relating to civil forfeitures, including section 983 of this title, shall extend to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States, shall order that any forfeited article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law.

''(3)(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

''(i) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense;

''(ii) any of the person's property used, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense; and

''(iii) any article that bears or consists of a counterfeit mark used in committing the offense.

''(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. Notwithstanding section 413(h) of that Act, at the conclusion of the forfeiture proceedings, the court shall order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed.

''(4) When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the mark and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).

''(5) The term 'victim', as used in paragraph (4), has the meaning given that term in section 3663A(a)(2).''.

(3) Subsection (e)(1) is amended—

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

''(A) a spurious mark—

''(i) that is used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;

''(ii) that is identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered;

''(iii) that is applied to or used in connection with the goods or services for which the mark is registered with the United States Patent and Trademark Office, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the United States Patent and Trademark Office; and

''(iv) the use of which is likely to cause confusion, to cause mistake, or to deceive; or''; and

(B) by amending the matter following subparagraph (B) to read as follows:

''but such term does not include any mark or designation used in connection with goods or services, or a mark or designation applied to labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature used in connection with such goods or services, of which the manufacturer or producer was, at the time of the manufacture or production in question, authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.''.

(4) Section 2320 is further amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

''(f) Nothing in this section shall entitle the United States to bring a criminal cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.''.

(c) SENTENCING GUIDELINES.—

(1) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 2318 or 2320 of title 18, United States Code.

(2) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(3) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this subsection, the United States Sentencing Commission shall determine whether the definition of ''infringement amount'' set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses listed in paragraph (1) and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as an anti-circumvention device, or the item in which the defendant trafficked was infringing and also was intended to facilitate infringement in another good or service, such as a counterfeit label, documentation, or packaging, taking into account cases such as U.S. v. Sung, 87 F.3d 194 (7th Cir. 1996).

SEC. 2. TRAFFICKING DEFINED.

(a) SHORT TITLE.—This section may be cited as the ''Protecting American Goods and Services Act of 2005''.

(b) COUNTERFEIT GOODS OR SERVICES.—Section 2320(e) of title 18, United States Code, is amended—

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

''(2) the term 'traffic' means to transport, transfer, or otherwise dispose of, to another,