

to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 256

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

S. 269

At the request of Mr. KERRY, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Jersey (Mr. CORZINE) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 269, a bill to provide emergency relief to small business concerns affected by a significant increase in the price of heating oil, natural gas, propane, or kerosene, and for other purposes.

S. RES. 28

At the request of Mr. DODD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 28, a resolution designating the year 2005 as the "Year of Foreign Language Study".

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 272. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System; to the Committee on Energy and Natural Resources.

Mrs. CLINTON. Mr. President, I rise to introduce the Caribbean National Forest Act of 2005 along with Senator SCHUMER.

The Caribbean National Forest Act designates approximately 10,000 acres of the Caribbean National Forest, CNF, as the El Toro Wilderness. The El Toro Wilderness would be the only tropical forest wilderness in the U.S. National Forest system.

The CNF has long been recognized as a special area, worthy of protection. The Spanish Crown proclaimed much of the current CNF as a forest reserve in 1824. Just over 100 years ago, President Theodore Roosevelt reasserted the protection of the CNF by designating the area as a forest reserve.

Located 25 miles east of San Juan, the CNF is a biologically diverse area. Although it is the smallest forest in the national forest system, the CNF ranks number one in the number of species of native trees with 240. In addition, the CNF has 50 varieties of orchids and over 150 species of ferns. The area is also rich in wildlife with over 100 species of vertebrates, including the endangered Puerto Rican parrot. The only native parrot in Puerto Rico, they numbered nearly one million at the time that Columbus set sail for the New World. Today there are fewer than 100 of these parrots. The Forest Serv-

ice, the U.S. Fish and Wildlife Service and Puerto Rico's Department of Natural Resources and the Environment have initiated a recovery program for the Puerto Rican Parrot. Wilderness designation will ensure that the forest home to the parrot will remain protected and the ongoing recovery efforts, consistent with the Wilderness Act, will continue.

The CNF also provides valuable water to the people of Puerto Rico. The CNF receives over 10 feet of rain each year. As a result, the major watersheds in the CNF are able to provide water to over 800,000 residents. In addition, the CNF provides a variety of recreational opportunities to almost one million Puerto Ricans and tourists each year. Families, friends and school groups come to the forest to hike, bird watch, picnic, swim and enjoy the scenic vistas.

Wilderness designation of the El Toro will protect approximately one third of the forest. During a House hearing on this measure in 2003 the U.S. Forest Service stated its support for the designation of the El Toro Wilderness Area. Those views were reconfirmed last July, when Mark Rey, the Department of Agriculture's Under Secretary for Natural Resources and Environment, supported my legislation during his testimony before the Senate Energy and National Resources Subcommittee on Public Lands and Forests.

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

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

S. 272

*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 "Caribbean National Forest Act of 2005".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term "map" means the map dated April 13, 2004 and entitled "El Toro Proposed Wilderness Area".

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

#### SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1113 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico described in the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) DESIGNATION.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of the land described in the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) PUBLIC INSPECTION AND TREATMENT.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) ERRORS.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) SPECIAL MANAGEMENT CONSIDERATIONS.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

By Mr. COLEMAN (for himself, Mr. KOHL, Mr. LEAHY, Mr. SPECTER, Mr. GRAHAM, Ms. LANDRIEU, Mr. WYDEN, Mr. THUNE, Mr. VITTER, Mr. JOHNSON, Mr. DEWINE, Mr. BIDEN, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. LAUTENBERG, Mrs. CLINTON, Mr. DAYTON, Mr. JEFFORDS, Mr. DODD, Ms. MIKULSKI, Mr. KENNEDY, Mr. KERRY, Mr. ROCKEFELLER, Mr. SARBANES, Mr. DORGAN, Mr. BOND, and Mr. HARKIN):

S. 273. A bill to amend the Farm Security and Rural Investment Act of 2002 to extend and improve national dairy market loss payments; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. COLEMAN. Mr. President, I ask unanimous consent that my legislation, which I introduce today, to extend the Milk Income Loss Compensation (MILC) program be printed in the RECORD.

I am pleased to be joined by 26 of my colleagues—over a quarter of the United States Senate. This is a bipartisan piece of legislation that has nationwide support including in the Midwest, Northeast, Mid-Atlantic, South, and West. This is not only rare for legislative efforts generally but extremely rare in the world of dairy.

MILC is important because it provides a critical safety net for dairy farmers that is equitable to all farmers across the country—also a departure from traditional federal dairy policy.

When milk prices fell to a 25 year low not long ago, MILC was vital in preventing a mass exodus of dairy farm families in my State. Fortunately, prices have recovered more recently. But should prices fall again, my dairy farm families need the kind of safety net provided by MILC.

MILC is important in that it provides a strong safety net to all the Nation's dairy farmers in a market-oriented way that does not increase milk prices on the grocery shelf.

For these and other reasons President Bush did the right thing and endorsed the extension of MILC. I am pleased to have the support of the President in this important endeavor and I hope my colleagues will join me in our effort.

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. 273

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

**SECTION 1. NATIONAL DAIRY MARKET LOSS PAYMENTS.**

Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended—

(1) in the first sentence of subsection (d)(2), by striking “2,400,000” and inserting “4,800,000”; and

(2) in subsections (f) and (g)(1), by striking “2005” each place it appears and inserting “2007”.

Mr. KOHL. Mr. President, I am pleased to join with a long list of colleagues in introducing a bill to extend the MILC program. This measure is supported by members from different regions of the country and both political parties. This broad base of support is a clear indication of this issue's importance.

MILC, as most of my colleagues know, is the program created in the 2002 Farm Bill after a very painful battle over the Northeast Dairy Compact. Many recall what a difficult time that was, with one group of dairymen pitted against another. I don't want to revisit that time. The MILC program bridged a bitter regional divide by providing a critical safety net when prices are low. And when prices rebound, the MILC program becomes dormant and costs nothing. The problem with MILC is that it expires on September 30 of this year—two years before the rest of the Farm Bill.

In addition to the cosponsors, MILC extension is supported by sixteen governors, including the governors of Wisconsin, Minnesota, Virginia, Vermont, Missouri, North Carolina, Pennsylvania, Idaho, Maine, Iowa, Michigan, New York, South Dakota, Ohio, Louisiana, and North Dakota. Moreover, the President of the United States committed himself to MILC extension during the presidential campaign.

I am hopeful the President's budget will include MILC extension when we

receive it next Monday. That would be a helpful next step. But the fact of the matter is that budget resolutions never get signed into law in and of themselves. They are merely a framework for further discussion and work. And it will take effort both from Congress and the administration to see this extension translated into law. I look forward to working with the President and his new Secretary of Agriculture to make sure that happens.

By Mr. DEMINT:

S. 274. A bill to amend title XI of the Social Security Act to include additional information in Social Security account statements; to the Committee on Finance.

Mr. DEMINT. Mr. President, in 1999, the Social Security Administration began mailing the new Your Social Security Statement to all Americans over the age of 25 but not retired.

These statements include an accounting of Social Security taxes the individual worker has paid to date, the worker's eligibility status for benefits, and an estimate of the benefits the worker could receive.

For most Americans, this personal statement will be the sole source of official information on Social Security; yet it downplays or omits important information about the program.

The bill I am introducing today is called the Social Security Right to Know Act and would correct this problem at no cost by simply changing the statement to include information available in official reports.

The improved statement would inform workers, using information in the Social Security Trustees' Report, that the taxes paid into the program may not be sufficient to fund all of their benefits in retirement.

It would also inform workers, using information from the Office of Management and Budget, that the Social Security Trust Fund does not consist of real economic assets that can be drawn down in the future to fund benefits.

The new statement would inform workers that they pay 6.2 percent of their earnings and their employer pays 6.2 percent on their behalf, for a total Social Security payroll tax of 12.4 percent.

It would also illustrate and explain to workers using information from the Government Accounting Office that while Social Security has performed well in the past, its average rate of return is expected to decline in the future.

While we may not agree on specific changes to Social Security, we should all agree that Americans have a right to know the true financial status of the program and how it will affect their retirement.

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. 274

*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 “Social Security Right to Know Act”.

**SEC. 2. MATERIAL TO BE INCLUDED IN SOCIAL SECURITY ACCOUNT STATEMENT.**

Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b-13(a)(2)) is amended—

(1) in subparagraph (D) by striking “and”;

(2) in subparagraph (E) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(F) a statement of the current social security tax rates applicable with respect to wages and self-employment income, including an indication of the combined total of such rates of employee and employer taxes with respect to wages; and

“(G)(i) as determined by the Chief Actuary of the Social Security Administration, a comparison of the total annual amount of social security tax inflows (including amounts appropriated under subsections (a) and (b) of section 201 of this Act and section 121(e) of the Social Security Amendments of 1983 (26 U.S.C. 401 note)) during the preceding calendar year to the total annual amount paid in benefits during such calendar year;

“(ii) as determined by such Chief Actuary—

“(I) a statement of whether the ratio of the inflows described in clause (i) for future calendar years to amounts paid for such calendar years is expected to result in a cash flow deficit,

“(II) the calendar year that is expected to be the year in which any such deficit will commence, and

“(III) the first calendar year in which funds in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund will cease to be sufficient to cover any such deficit;

“(iii) an explanation that states in substance—

“(I) that the Trust Fund balances reflect resources authorized by the Congress to pay future benefits, but they do not consist of real economic assets that can be used in the future to fund benefits, and that such balances are claims against the United States Treasury that, when redeemed, must be financed through increased taxes, public borrowing, benefit reduction, or elimination of other Federal expenditures,

“(II) that such benefits are established and maintained only to the extent the laws enacted by the Congress to govern such benefits so provide, and

“(III) that, under current law, inflows to the Trust Funds are at levels inadequate to ensure indefinitely the payment of benefits in full; and

“(iv) in simple and easily understood terms—

“(I) a representation of the rate of return that an average taxpayer retiring at retirement age (as defined in section 216(1)) credited each year with average wages and self-employment income would receive on old-age insurance benefits as compared to the total amount of employer, employee, and self-employment contributions of such a taxpayer, as determined by such Chief Actuary for each cohort of workers born in each year beginning with 1925, which shall be set out in chart or graph form with an explanatory caption or legend, and

“(II) an explanation for the occurrence of past changes in such rate of return and for the possible occurrence of future changes in such rate of return.

The Comptroller General of the United States shall consult with the Chief Actuary

to the extent the Chief Actuary determines necessary to meet the requirements of subparagraph (G).”.

By Mr. JOHNSON (for himself and Mr. THUNE):

S. 276. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

Mr. JOHNSON. Mr. President, I rise today to re-introduce legislation from the previous Congress that will revise and expand the boundary to the Wind Cave National Park in Custer and Fall River County South Dakota. I am pleased that my colleague, Senator JOHN THUNE, has joined me today in introducing this important bill.

Wind Cave National Park is one of the Nation's first national parks, containing in its boundaries one of the greatest expanses of underground cave complexes in North America. Established in 1903, Wind Cave National Park protects one of the world's oldest known cave formations with hundreds of miles of underground compartments. Amazingly, scientific measurements indicate that only five percent of the total cave has been discovered.

With the option to acquire approximately 5,500 acres of land from willing sellers, Wind Cave National Park has a once-in-a-generation opportunity to significantly enhance one of the last remaining mixed-grass prairie ecosystems in the world. The acquisition of this land adjacent to the southern boundary of the park will preserve a key archaeological site described as one of the only existing buffalo jumps used by Native Americans as they hunted the giant animal.

I believe that the local park officials and the willing-seller landowner have done a good job in reaching out to the community and working to modify their original proposal to conform to the interests of adjacent landowners and the State of South Dakota. As with any land acquisition initiative the question of compensating local government's for the lost tax revenue is extremely important. The matter is particularly acute in western South Dakota, where large tracts of federal land result in particular challenges. To that end, I call on Congress to fully fund the Payment in Lieu of Taxes program and provide a dedicated revenue source to compensate local communities that have significant amounts of federal lands in the counties.

The Wind Cave National Park is a South Dakota treasure shared with the entire world through the stewardship of the National Park Service. Some four million visitors come to the Black Hills each year and tourism is one of South Dakota's leading economic engines. It is my strong desire that the Congress will quickly take the appropriate steps necessary and demonstrate positive action in the consideration of this bill.

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. 276

*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 “Wind Cave National Park Boundary Revision Act of 2005”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) MAP.—The term “map” means the map entitled “Wind Cave National Park Boundary Revision”, numbered 108/80,030, and dated June 2002.

(2) PARK.—The term “Park” means the Wind Cave National Park in the State.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) STATE.—The term “State” means the State of South Dakota.

**SEC. 3. LAND ACQUISITION.**

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may acquire the land or interest in land described in subsection (b)(1) for addition to the Park.

(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(b) BOUNDARY.—

(1) MAP AND ACREAGE.—The land referred to in subsection (a)(1) shall consist of approximately 5,675 acres, as generally depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) REVISION.—The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

**SEC. 4. ADMINISTRATION.**

(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management to the Director of the National Park Service administrative jurisdiction over the land described in paragraph (2).

(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as “Bureau of Land Management land”.

**SEC. 5. GRAZING.**

(a) GRAZING PERMITTED.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under section 3(a)(1).

(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under section 3(a)(1).

(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of a permit or lease for grazing on any acquired land.

By Mr. JOHNSON (for himself, Mr. DEWINE, and Mr. HARKIN):

S. 277. A bill to amend title XVIII of the Social Security Act to provide for direct access to audiologists for Medi-

care beneficiaries, and for other purposes; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to introduce the Hearing Health Accessability Act with our colleagues Senator DEWINE and Senator HARKIN. This legislation is the companion bill to legislation that was introduced in the House by Representative JIM RYUN, with a number of co-sponsors.

This legislation will, in short, provide Medicare beneficiaries with the option of direct access to audiology services, as is the case for the health care programs administered by the Department of Veterans Affairs and the Office of Personnel Management. Direct access works well for our veterans and for Federal employees, including Members of Congress, and should be available to senior citizens in the Medicare program.

In 2003, the Congress in the Appropriations Conference Report number 108-10 recommended that the Center for Medicare and Medicaid Services make this change. We have since learned from Mr. Joel Kaplan, Deputy Director, Office of Management and Budget, that CMS does not have the authority to do so under current law. Therefore, I hope that we can all agree that this is a common sense idea whose time has come, and move this legislation forward to enactment.

Direct access would facilitate access to hearing care without expanding the scope of practice for audiologists. This legislation will make it easier for Medicare beneficiaries, particularly in rural America, to have the same high quality hearing care provided by the VA and OPM. It is also important to point out that both the Medicare and Medicaid programs now recognize State licensure as the appropriate standard for determining who is a qualified audiologist.

This legislation enjoys the support the American Academy of Audiology, the American Speech-Language and Hearing Association, and the Academy of Dispensing Audiologists. I commend this legislation to the attention of my colleagues.

By Ms. COLLINS:

S. 278. A bill to revise certain requirements for H-2B employers and require submission of information regarding H-2B non-immigrants, and for other purposes; to the Committee on the Judiciary.

Ms. COLLINS. Mr. President, the recent shortage of H-2B nonimmigrant visas for temporary or seasonal non-agricultural foreign workers is a matter of great concern to many small businesses in my home State of Maine, particularly those in the hospitality sector that rely on these seasonal workers to supplement their local employees during the height of the tourism season.

On January 4, a mere 3 months into fiscal year 2005, the U.S. Citizenship and Immigration Services, CIS, announced that it would immediately

stop accepting applications for H-2B visas because the annual statutory cap of 66,000 visas had been met. In other words, many employers who require temporary workers in the spring, summer, or fall will be unable to hire such workers because all 66,000 H-2B visas will already have been issued within the first few months of the fiscal year. Once again, Maine's employers will be left out in the cold, disadvantaged by their later tourism season.

Without these visas, employers will be unable to hire enough workers to keep their businesses running at normal levels. Last year, unable to locate enough American workers willing and able to take these jobs, and without temporary foreign workers to fill the gap, many business owners were forced to initiate stop-gap measures that were neither ideal nor sustainable in the long term. Many of these businesses fear that, this year, they will have to decrease their hours of operation during what is their busiest time of year. This would translate into lost jobs for American workers, lost income for American businesses, and lost tax revenue from those businesses. These losses will be significant, and they can be avoided.

This is why I am today introducing the Summer Operations and Seasonal Equity Act of 2005. Similar to legislation that I cosponsored last year, this bill would exclude from the cap returning workers who were counted against the cap within the past 3 years. This legislation also seeks to address the inequities in the current system by requiring that no fewer than 12,000 visas be made available in each quarter of the fiscal year. By holding back a limited number of visas for use in each quarter, we will ensure that employers across the country, operating in all four seasons, have a fair and equal opportunity to hire these much-needed workers.

We must act quickly on this legislation, however, or we will be too late to help thousands of American businesses that need our help now. We cannot be content to say: "It's too late for this year; maybe next year." It is true that comprehensive, long-term solutions may be necessary, but we have immediate needs as well. This problem demands immediate solutions.

In my home State of Maine, the economic impact of this visa shortage will be harmful and widespread. When people think of Maine, what often comes to mind is its rugged coastline, picturesque towns and villages, and its abundant lakes and forests. Not surprisingly, tourism is the State's largest industry. Temporary and seasonal workers play an important role in this very important industry.

This is because, unfortunately, there are not enough American workers willing and able to fill the thousands of jobs necessary to provide the level of service that Maine's visitors have come to expect. Over the years, seasonal workers have filled this gap, becoming

an integral part of Maine's tourism and hospitality industry. In fiscal year 2003, the last time Maine's employers were able to fully utilize the H-2B program, Maine employed more than 3,000 seasonal workers. The majority of these individuals worked in the State's resorts, inns, hotels, and restaurants. Many are people who have returned to the same employer summer after summer.

Let me emphasize that employers are not permitted to hire these foreign workers unless they can prove that they have tried, and failed, to locate available and qualified American workers through advertising and other means. As a safeguard, current regulations require the U.S. Department of Labor to certify that such efforts have occurred before CIS will process the visa applications. Therefore, unless and until more H-2B visas are made available, many of these jobs will remain unfilled and American businesses will suffer.

A similar situation faces Maine's forest products industry, which contributes approximately \$5.6 billion annually to Maine's economy. In 2003, more than 600 temporary workers—mostly from Canada—were employed as forestry workers in Maine. Many work in remote areas of the State where there are not enough Americans able to take these jobs. By some estimates, these foreign workers account for as much as 30-40 percent of the wood fiber that supplies paper and saw mills throughout Maine and the Northeast. This number represents roughly 4.8 million tons of wood annually. With an already significant shortage in the wood supply, the loss of these temporary workers poses a serious threat to the industry and to Maine's economy. With fewer workers available to bring wood out of the forest and into mills, supplies will dwindle, prices will continue to rise, and mills may be forced to curtail production, or even temporarily discontinue operations. If this happens, it is American workers who may lose their jobs.

The effects of the H-2B visa shortage are not limited to the tourism and forest products industries, however. It will also be felt by fisheries and lobstermen, junior league hockey and minor league baseball teams. It will affect small businesses and large, visitors and locals, young and old, from Maine to Maryland, to Wyoming and Alaska.

The shortage of nonimmigrant temporary or seasonal worker visas is a problem that must be addressed, and soon. I believe that this legislation offers a workable short-term solution, and I urge us to move forward with this solution. We must resist the tendency to let this problem, and the people who are affected by it, become entangled in the larger debate about our Nation's immigration policies. This is not about the number of immigrants we should allow to come to the United States each year, or what to do with those who violate our immigration laws. It is

about temporary workers who, for the most part, respect our laws, go home at the end of their authorized stay, and in many cases, return again next year to provide services that benefit our nation's economy. It is about American businesses that rely on these workers to take jobs that many Americans do not want. It is about the economic impact that will be felt across the Nation if these businesses are unable to hire temporary workers. We need to solve this problem now, before it is too late and our economy is harmed and jobs lost.

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

S. 279. A bill to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I rise today with my colleague, Senator BINGAMAN, to introduce legislation to address a serious problem in the State of New Mexico. State case law currently holds that the State of New Mexico does not have jurisdiction to prosecute crimes that occur on privately held land within the exterior boundaries of a Pueblo. Federal case law holds that the Federal Government does not have jurisdiction to prosecute crimes that occur on these lands. Read in tandem, these court decisions lead to the result that neither Federal, State nor tribal law-enforcement officials have jurisdiction on thousands of acres of privately owned lands within the boundaries of Indian pueblos. As a result, in recent years there have been stabbings, criminal sexual-contact cases, and aggravated battery charges that have stalled in court over jurisdiction questions.

The prospect of having lands in my State where anyone can commit any crime and not be prosecuted for it is untenable and something that needs to be fixed. The legislation I am introducing today clearly outlines who is responsible for trying these cases by clarifying when a crime should be prosecuted in Federal, tribal, or State court. At the same time, the bill honors tribal sovereignty.

If we do not address this problem, it will only worsen. This legislation culminates a lot of work among the New Mexico delegation, the pueblos, and the State. It is a necessary bill. It is a good bill. And I hope that my colleagues will act quickly to clarify jurisdiction over these lands.

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. 279

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

**SECTION 1. CRIMINAL JURISDICTION.**

The Act of June 7, 1924 (43 Stat. 636, chapter 331) is amended by adding at the end the following:

**SEC. 20. CRIMINAL JURISDICTION.**

“(a) IN GENERAL.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico, shall be as provided in this section.

“(b) JURISDICTION OF THE PUEBLO.—The Pueblo shall have jurisdiction, as an act of the inherent power of the Pueblo as an Indian tribe, over any offense committed by a member of the Pueblo or of another federally recognized Indian tribe, or by any other Indian-owned entity.

“(c) JURISDICTION OF THE UNITED STATES.—The United States shall have jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against a member of any federally recognized Indian tribe or any Indian-owned entity, or that involves any Indian property or interest.

“(d) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a federally recognized Indian tribe, which offense is not subject to the jurisdiction of the United States.”

By Mrs. HUTCHISON:

S. 280. A bill to amend the Internal Revenue Code of 1986 to provide for the amortization of delay rental payments and geological and geophysical expenditures; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I rise today to offer a bill that will bolster our energy independence by clarifying current tax law regarding domestic oil and gas production.

We need to promote domestic energy supplies because we are increasingly dependent on foreign oil to meet our energy needs. We currently import almost 60 percent from foreign countries. Promoting domestic production is both an economic and national security issue.

The rational treatment of costs associated with exploration and production of energy resources is vital to attracting and retaining financing in an inherently capital-intensive industry. The bill I am introducing helps in this regard by allowing accelerated deduction of geological and geophysical (G&G) costs and delay rental payments. Specifically, this legislation will allow these expenses to be amortized over a 2 year period. This will encourage further development of the United States oil and gas industry.

There is no reason G&G expenditures should be considered capital expenditures with a long amortization period rather than treating them more like research and development costs. Our current tax code needlessly limits the ability of domestic producers to develop our national petroleum reserves.

Congress also needs to clarify that delay rental payments are deductible as ordinary and necessary business expenses. This is important for developers who cannot afford to run continuous operations on the properties they hold. The current uncertainty of how these costs are to be treated has led to costly litigation; prompt clarification

will eliminate needless administrative burdens on taxpayers and the Internal Revenue Service.

I urge my colleagues to support this bill as an important step in developing energy independence. 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. 280

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

**SECTION 1. AMORTIZATION OF DELAY RENTAL PAYMENTS.**

(a) IN GENERAL.—Section 167 of the Internal Revenue Code of 1986 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

“(1) IN GENERAL.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

“(2) HALF-YEAR CONVENTION.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

“(3) EXCLUSIVE METHOD.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

“(4) TREATMENT UPON ABANDONMENT.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

“(5) DELAY RENTAL PAYMENTS.—For purposes of this subsection, the term ‘delay rental payment’ means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

**SEC. 2. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.**

(a) IN GENERAL.—Section 167 of the Internal Revenue Code of 1986 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

“(i) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

“(1) IN GENERAL.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

“(2) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.”

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) of the Internal Revenue Code of 1986 is amended by inserting “167(h), 167(i),” after “under section”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts

paid or incurred in taxable years beginning after the date of the enactment of this Act.

By Mr. DODD (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mrs. MURRAY, Mrs. CLINTON, Mr. DURBIN, Mr. LAUTENBERG, Mr. LEAHY, Mr. AKAKA, Mrs. BOXER, and Mr. CORZINE):

S. 282. A bill to amend the Family and Medical leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased to join with my colleagues Senator KENNEDY, Senator MIKULSKI, Senator MURRAY, Senator CLINTON, Senator DURBIN, Senator LAUTENBERG, Senator LEAHY, Senator AKAKA, Senator BOXER, and Senator CORZINE, to introduce the “Family and Medical Leave Expansion Act.” Today marks the 12th anniversary of the enactment of the Family and Medical Leave Act. This landmark legislation was nearly a decade in the making, but today, more than 50 million Americans have taken leave under FMLA.

Despite the many Americans the Family and Medical Leave Act has helped, too many continue to be left behind. Too many continue to have to choose between job and family. The facts are clear: millions of Americans remain uncovered by the Family and Medical Leave Act. And too many who are eligible for the Family and Medical Leave Act cannot afford to take unpaid leave from work. The “Family and Medical Leave Expansion Act”, which we are introducing today addresses both these problems.

The “Family and Medical Leave Expansion Act” would expand the scope and coverage of FMLA. It would fund pilot programs at the state level to offer partial or full wage replacement programs to ensure that employees do not have to choose between job and family.

Times have changed over the years. More and more mothers are working. While decades ago only a tiny fraction of mothers with infants under one year of age were working, in 2004 about 55 percent of mothers with infants were working. Even as employment rates within this group rises, family responsibilities remain constant, a reality that lies at the core of the FMLA. According to an employee survey by the Department of Labor, about one-fifth of U.S. workers have a need for some form of leave covered under the FMLA, and about 40 percent of all employees think they will need FMLA-covered leave within the next 5 years.

According to a Department of Labor study in 2000, leave to care for one's own health or for the health of a seriously ill child, spouse or parent, together account for almost 80 percent of all FMLA leave. Approximately 52 percent of the leave taken is due to employees' own serious health problems, while 26 percent of the leave is taken by young parents caring for their children at birth or adoption.

The FMLA requires that all public sector employers and private employers of 50 or more employees provide up to 12 weeks of unpaid leave for medical and family care reasons for eligible employees. About 77 percent of employees in the private and public sector currently work in FMLA-covered sites, although only 62 percent of employees are actually eligible for leave.

However, only 11 percent of private sector work sites are covered under FMLA. Individuals working for smaller private employers deserve the same work protections afforded to other employees. As a step toward expanding protection to more hard-working Americans, this bill would extend FMLA coverage to all private sector worksites with 25 or more employees within a 75-mile radius. This would mean that an additional 13 million Americans would be eligible for leave under the Act—roughly 240,000 in my own State of Connecticut.

Mothers and fathers, adult sons and daughters have the same family responsibilities and personal health problems, regardless of whether they work for the government, a large private enterprise, or a medium-sized private business. Expanding the FMLA to businesses with 25 or more employees is a crucial acknowledgment of this reality.

The bill recognizes the enormous physical and emotional toll domestic violence takes on victims. The bill expands the scope of FMLA to include leave for individuals to care for themselves or to care for a daughter, son, or parent suffering from domestic violence.

Expanding the scope and coverage of FMLA is a positive step for many Americans. But, alone, it is not enough. According to a Department of Labor study, 3.5 million covered Americans needed leave but—without wage replacement—could not afford to take leave. Over four-fifths of those who needed leave but did not take it said they could not afford unpaid leave.

Others cut their leave short, with the average duration of FMLA leave being 10 days. Of those individuals taking leave under the Family and Medical Leave Act, nearly three-quarters had incomes above \$30,000.

While the financial sacrifice is often enormous, the need for leave can be even more so. Every year, many Americans bite the bullet and accept unpaid leave. As a result, nine percent of leave takers go on public assistance to cover their lost wages. Almost twelve percent of female leave takers use public assistance for this reason. These individuals are far from being unwilling to work. Instead, they are trying to balance work with family—often during a crisis, too often with inadequate means to get by.

Other major industrialized nations have implemented policies far more family-friendly to promote early childhood development and family caregiving. At least 128 countries pro-

vide paid and job-protected maternity leave, with an average of sixteen weeks of basic paid leave. In 1992, before we enacted the Family and Medical Leave Act, the European Union mandated a paid fourteen-week maternity leave as a health and safety measure. Among the 29 Organization for Economic Cooperation and Development (OECD) countries, the average childbirth-related leave is 44 weeks, while the average duration of paid leave is 36 weeks.

Compared to these other developed nations, the United States is far behind in efforts to promote stronger families and worker productivity. The “Family and Medical Leave Expansion Act” builds on current law to provide pilot programs for States and the federal government to provide for partial or full wage replacement for at least 6 weeks. At a minimum, this will ensure that parents can continue to make ends meet while taking family and medical leave.

When we talk about a more compassionate America, nowhere is that more evident than in our caregiving leave policies. No one should have to choose between work and family. Women and men deserve to take leave when family or health conditions require it without fear of losing their job or livelihood. We must not simply pay lip service to family integrity and the promotion of a healthy workplace.

We talk often of our need to strengthen family values. We cite studies about the importance of the first few months of a newborn’s life. This bill offers more parents the opportunity to spend time with their families when their families most need them.

I urge my colleagues to support the “Family and Medical Leave Expansion Act” to promote our family values and to ensure the welfare and health of hard-working Americans.

I ask unanimous consent that a copy of a brief summary of the Family and Medical Leave Expansion Act be printed in the RECORD.

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

THE FAMILY AND MEDICAL LEAVE EXPANSION ACT  
BRIEF SUMMARY

Background: Since enactment in 1993, more than 50 million employees have taken leave under the Family and Medical Leave Act. The Act guarantees eligible employees working for covered employers access to up to 12 weeks of unpaid, job-protected leave within any 12-month period to care for their health or the health of their families without putting their jobs or health insurance at risk. About 11 percent of private sector businesses are covered under FMLA; 77 percent of employees work in these covered businesses (although about 62 percent of employees are eligible for FMLA).

According to data from a 2001 Department of Labor study, 52 percent of leave-takers have taken time off to care for their own serious illness; 26 percent have taken time off to care for a new child or for maternity disability reasons; 13 percent have taken time off to care for a seriously ill parent; 12 per-

cent have taken time off to care for a seriously ill child; and 6 percent have taken time off to care for a seriously ill spouse. About 42 percent of leave takers are men; about 58 percent of leave-takers are women. The median length of leave is 10 days; 80 percent of leaves are for 40 days or fewer. About 73 percent of leave-takers earn \$30,000 or more.

While the Family and Medical Leave Act has proven invaluable to many Americans, too many are still not covered by the law and others cannot afford to take leave under the Act because leave is unpaid. Many women and men are unable to take time off to care for their families, whether due to the arrival of a new child or when a medical crisis strikes. More than three in four (78 percent) employees who have needed but who have not taken leave report that they simply could not afford it.

The Family and Medical Leave Expansion Act would expand the scope and coverage of FMLA to ensure that even more American workers do not have to choose between job and family. Too many eligible individuals simply cannot afford unpaid leave. Many forgo leave or take the shortest amount of time possible because the current FMLA law requires only unpaid leave. The Family and Medical Leave Expansion Act would:

Establish a pilot program to allocate grants to states to provide paid leave for at least 6 weeks to eligible employees responding to caregiving needs resulting from the birth or adoption of a child or family illness. States may provide for wage replacement directly or through an insurance program, such as a state temporary disability program or a state unemployment compensation program, or other mechanism. Such paid leave shall count toward an eligible employee’s 12 weeks of leave under FMLA.

Expand the number of individuals eligible for FMLA by covering employers with 25 or more employees (to enable 13 million more Americans to take FMLA).

Expand the reasons for leave to include eligible employees addressing domestic violence and its effects, which make the employee unable to perform the functions of the position of such employee or, to care for the son, daughter, or parent of the employee, if such individual is addressing domestic violence and its effects.

Establish a pilot program within the federal government for the Office of Personnel Management (OPM) to administer a partial or full wage replacement for at least 6 weeks to eligible employees responding to caregiving needs resulting from the birth or adoption of a child or other family caregiving needs. Such paid leave shall count toward an eligible employee’s 12 weeks of leave under FMLA.

Allow employees to use a total of 24 hours during any 12 month period to participate in a school activity of a son or daughter, such as a parent-teacher conference, or to participate in literacy training under a family literacy program.

By Mr. SMITH (for himself, Mr. BAYH, Mr. ALLEN, Mr. WYDEN, Mr. MCCAIN, Mr. LEVIN, Mr. CRAPO, Mr. DAYTON, Mr. HAGEL, Mr. BAUCUS, Mr. COLEMAN, Mr. HATCH, Mr. BENNETT, Mr. THOMAS, Mr. ENZI, Mr. KYL, Mr. GRASSLEY, Mr. CRAIG, Mr. LUGAR, and Mr. DOMENICI):

S. 284. A bill to distribute universal service support equitability throughout rural America, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. President, I rise today to shine a spotlight on one of the most

lopsided and unfair programs in the Federal Government, and to reintroduce legislation to correct it.

Every year, the Federal Government collects millions of dollars in "universal service" surcharges on telephone bills. In part, this money is intended to be used to provide, affordable telephone service in isolated, rural areas—a goal we all support.

Unfortunately, instead of sending these funds equitably to rural areas throughout the United States, many residents in 40 States—including some of the most rural States in the country—receive no support from this program, while a few States receive enormous windfalls. In 2005, about 75 percent of a key universal service fund account is projected to go to just three States and a single State will receive more than half of the funding provided by this program. All of this continues the pattern of lopsided funding distribution seen in recent years.

I am referring to the Federal Universal Service Fund program for so-called "non-rural carriers." This is a ridiculous misnomer because more than 70 percent of all rural Americans are served by one of 30 so-called "non-rural" carriers. If you live in a small, isolated town or rural area, you are likely served by one of these carriers, and chances are your community is receiving none of the benefits of this program.

The calls to fix this program have been growing louder and louder. In the 108th Congress, more than 80 independent organizations and state and local officials called on us to fix this unfair, broken program, including 21 governors, 38 State utility commissioners, the American Farm Bureau Federation, the National Grange, and groups representing business, labor, consumers, minorities, and the rural poor.

Responding to that broad support, more than 30 Senators and 80 Representatives cosponsored my bill or the House companion measure offered by Mr. TERRY of Nebraska and Mr. STUPAK of Michigan last Congress. And the Senate Commerce Committee approved my bill on a strong bipartisan vote.

Today, I am reintroducing the Rural Universal Service Equity Act, along with 19 of my colleagues. This legislation would guarantee a fairer, more targeted distribution of the non-rural-carrier account by requiring allocations to be based on actual community needs, not an arbitrary mathematical formula.

Beyond basic fairness for the majority of rural America, there are at least two additional reasons to enact this legislation.

First, it will help overcome the "digital divide" between urban and rural America, and prevent it from growing worse. As long as the current rules remain in place, the majority of rural communities and the telephone companies that serve them will suffer a significant competitive disadvantage in today's digital economy.

Second, the bill will fix this program while keeping a tight rein on USF expenditures. My legislation would redistribute existing funds more fairly, without imposing any additional burdens on the USF or requiring increased federal spending or revenues.

Finally, my bill would not interfere with important efforts to fix other serious problems in the Universal Service Fund. We all know the USF must be modernized and reformed to reflect the challenges and technologies of the 21st Century.

But the broader USF reform debate is likely to be contentious and protracted. In the meantime, we should be able to correct a shameful inequity in a program that is intended to benefit the majority of rural Americans. And we should do it as soon as possible.

Once again I thank my colleagues and friends across America who have helped in this effort to date, and I call upon all members of the Senate to become cosponsors of the Rural Universal Service Equity Act. I ask unanimous consent that the text of legislation be printed in the RECORD.

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

S. 284

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Universal Service Equity Act of 2005".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Federal Communications Commission's high-cost model support program for certain carriers provides no Federal support to 40 States.

(2) Federal universal service support should be calculated and targeted to small geographic regions within a State to provide greater assistance to the rural consumers most in need of support.

(3) Local telephone competition and emerging technologies are threatening the viability of Federal universal service support.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To begin consideration of universal service reform.

(2) To spread the benefits of the existing Federal high-cost model support mechanism more equitably across the nation.

#### SEC. 3. COMPTROLLER GENERAL REPORT ON NEED TO REFORM HIGH-COST SUPPORT MECHANISM.

Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the need to reform the high-cost support mechanism for rural, insular, and high-cost areas. As part of the report, the Comptroller General shall provide an overview and discuss whether—

(1) existing Federal and State high-cost support mechanisms ensure rate comparability between urban and rural areas;

(2) the Federal Communications Commission and the States have taken the necessary steps to remove implicit support;

(3) the existing high-cost support mechanism has affected the development of local competition in urban and rural areas; and

(4) amendments to section 254 of the Communications Act of 1934 (47 U.S.C. 254) are

necessary to preserve and advance universal service.

#### SEC. 4. ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT FOR HIGH-COST AREAS.

Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end the following new subsection:

"(m) UNIVERSAL SERVICE SUPPORT FOR HIGH-COST AREAS.—

"(1) CALCULATING SUPPORT.—In calculating Federal universal service support for eligible telecommunications carriers that serve rural, insular, and high-cost areas, the Commission shall, subject to paragraphs (2) and (3), revise the Commission's support mechanism for high-cost areas to provide support to each wire center in which the incumbent local exchange carrier's average cost per line for such wire center exceeds the national average cost per line by such amount as the Commission determines appropriate for the purpose of ensuring the equitable distribution of universal service support throughout the United States.

"(2) HOLD HARMLESS SUPPORT.—In implementing this subsection, the Commission shall ensure that no State receives less Federal support calculated under paragraph (1) than the State would have received, up to 10 percent of the total support distributed, under the Commission's support mechanism for high-cost areas as in effect on the date of the enactment of this subsection.

"(3) LIMITATION ON TOTAL SUPPORT TO BE PROVIDED.—The total amount of support for all States, as calculated under paragraphs (1) and (2), shall be equivalent to the total support calculated under the Commission's support mechanism for high-cost areas as in effect on the date of the enactment of this subsection.

"(4) CONSTRUCTION OF LIMITATION.—The limitation in paragraph (3) shall not be construed to preclude fluctuations in support on the basis of changes in the data used to make such calculations.

"(5) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this subsection, the Commission shall complete the actions (including prescribing or amending regulations) necessary to implement the requirements of this subsection.

"(6) DEFINITION.—In this subsection, the term 'Commission's support mechanism for high-cost areas' means section 54.309 of title 47, Code of Federal Regulations and the regulations referred to in such section."

#### SEC. 5. NO EFFECT ON RURAL TELEPHONE COMPANIES.

Nothing in this Act shall be construed to affect the support provided to an eligible telecommunications carrier under section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)) that is a rural telephone company (as defined in section 3 of such Act (47 U.S.C. 153)).

By Mr. DODD (for himself, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. MURRAY, Mr. LIEBERMAN, Mr. SARBANES, Ms. LANDRIEU, Mr. DAYTON, Mr. LEVIN, Mr. LAUTENBERG, Mr. INOUE, Mr. CORZINE, Mr. DURBIN, and Mr. AKAKA):

S. 286. A bill to amend section 401(b)(2) of the Higher Education Act of 1965 regarding the Federal Pell Grant maximum amount; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise and am joined by my colleagues Senators MIKULSKI, JEFFORDS, MURRAY, LIEBERMAN, SARBANES, LANDRIEU, DAYTON, LEVIN, LAUTENBERG, INOUE,

CORZINE, DURBIN and AKAKA to introduce legislation to amend the Higher Education Act to improve access to higher education for low- and middle-income students by raising the authorized maximum Pell Grant to \$11,600 within five years. This bill has the strong support of the Student Aid Alliance, whose 60 organizations represent students, colleges, parents, and others who care about higher education.

Pell Grants were established in the early 1970s by our former colleague, I Claiborne Pell, of Rhode Island. They are the largest source of Federal grant aid for college students. For millions of low- and middle-income students they are the difference between attending or not attending college. But, unfortunately, they don't make as much of a difference as they used to.

In 1975, the maximum appropriated Pell Grant covered all of the average student's tuition, fees, room, and board at community colleges. It covered about 80 percent of those costs at public universities and about 40 percent at private universities. In 2003, the average Pell Grant covered 32 percent of tuition, room and board at community colleges, 23 percent of the total charges at public universities, and 9 percent of total charges at private universities. That's not just a drop, it's a free-fall.

For low- and middle-income families, the cost of college also has increased significantly as a percentage of income. College is getting farther and farther out of reach for an entire generation of students.

As a result of all this, low- and middle-income students who want to attend college are forced to finance their education with an ever-increasing percentage of loans as opposed to grants. This increases the cost of attendance for these students even more, and in many cases, keeps them from going to college at all.

For four years now, the Administration has not raised the maximum Pell Grant. On top of leaving millions of children behind by failing to meet the bipartisan promises of the No Child Left Behind Act, they have left even more children behind who work hard and do well in school and want to go on to college. If we're serious about leaving no child behind, if we're serious about having a society where equal opportunity for all is more than just rhetoric, then we need to reinvigorate the Pell program.

It has been said that investing in a student's future is investing in our Nation's future. We can start investing in our Nation's future by supporting this bill to increase the maximum appropriated Pell Grant to \$11,600. This bill won't bring the Pell Grant's purchasing power back to where it was in 1975, but it is a critical first step, and I intend to continue my efforts on this matter throughout this Congress. I hope that my colleagues will join me.

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. 286

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

**SECTION 1. FEDERAL PELL GRANT MAXIMUM AMOUNT.**

Section 401(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(2)) is amended—

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

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

“(A) Except as provided in subparagraph (B), the amount of the Federal Pell Grant for a student eligible under this part shall be—

“(i) \$7,600 for academic year 2005–2006;

“(ii) \$8,600 for academic year 2006–2007;

“(iii) \$9,600 for academic year 2007–2008;

“(iv) \$10,600 for academic year 2008–2009;

and

“(v) \$11,600 for academic year 2009–2010, less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.”; and

(3) by inserting after subparagraph (A) (as amended by paragraph (2)) the following:

“(B) If the Secretary determines that the increase from one academic year to the next in the amount of the maximum Federal Pell Grant authorized under subparagraph (A) does not increase students' purchasing power (relative to the cost of attendance at an institution of higher education) by not less than 5 percentage points, then the amount of the maximum Federal Pell Grant authorized under subparagraph (A) for the academic year for which the determination is made shall be increased by an amount sufficient to achieve such a 5 percentage point increase.”.

Mr. ENSIGN (for himself, Mr. KYL, and Mr. CRAPO):

S. 287. A bill to require the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law; to the Committee on the Budget.

Mr. ENSIGN. Mr. President, I rise today to introduce legislation to require the Joint Committee on Taxation and the Congressional Budget Office to use dynamic scoring, in addition to traditional static scoring, when estimating the effects of tax policy changes.

For too long, Congress has debated changes to the tax code without the benefit of knowing how those changes might affect the Federal Government's revenue and the overall economy. I have believed that Washington, DC should consider the dynamic effect of tax cuts ever since I was first elected to Congress. This is why I am introducing this legislation today and why I first introduced this bill back in 2003.

On January 24, 2005, The Wall Street Journal published an article that explained the need for dynamic scoring. I agree with the article: certain tax cuts can stimulate our Nation's economy, and in turn, increase the Federal Government's revenue. What the article explains is that a dollar in tax cuts does not necessarily result in a dollar

of lost revenue. The right type of tax cut will encourage growth and job creation and will expand the economy. This expansion will in turn increase tax revenue. I would ask unanimous consent that the text of that article be reprinted in the RECORD.

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

[From the Wall Street Journal, Jan. 24, 2005]

**GAINING CAPITAL**

Some people continue to believe, or at least still assert, that tax rates don't influence taxpayer behavior all that much. We therefore direct their attention to the Treasury Department's latest historical data on revenues from taxes on capital gains.

The numbers look like a 25-year demonstration of the Laffer Curve in action. Taxes paid on capital gains have been highly responsive to the maximum capital gains tax rate. Especially notable is how, over the years, capital gains realizations and the taxes paid on those gains have tended to increase in the years following a cut in the capital gains tax rate.

The reductions highlighted in the chart include the famous William Steiger tax rate cut that passed Congress in late 1978 over Jimmy Carter's objections, the Reagan tax cut passed in 1981, and the cut that was part of the Clinton-Gingrich balanced budget deal of 1997. All of those reductions caused taxpayers to cash in more of their gains and thus yielded revenue windfalls for the federal Treasury in succeeding years.

On the other hand, the capital gains tax increase of 1986—which moved the rate back up to 28% from 20%—proved to be a revenue disaster. Taxes paid on long-term capital gains (those typically held longer than one year) fell off a cliff to \$33.7 billion in 1987 from \$52.9 billion a year earlier. And they stayed at close to that mediocre lower level for nearly another decade. In other words, higher rates didn't do anyone any good, not even the politicians who thought they'd be getting more tax revenue to spend.

We aren't asserting that tax-rate changes have been the only factors influencing revenue changes. The performance of the broader economy and the stock market have also mattered a great deal. Capital gains revenues boomed in the late 1990s after the 1997 rate cut, but they fell abruptly with the bursting of the dot-com and tech bubbles in 2001.

The evidence is overwhelming, however, that lower rates induced more taxpayers to realize their capital gains, and thus produced more tax revenue despite the lower rates. The top capital gains rate was cut again in 2003, to 15%, and it is likely that Treasury will also report an increase in revenues in that year and in 2004 as the stock-market rebounded smartly.

In each of these episodes, we should add, Congress's Joint Tax Committee predicted more or less the opposite. Wedded to its static models that underestimate the impact of behavioral incentives, Joint Tax predicted revenue losses from tax-rate cuts and revenue gains from tax-rate increases. In recent years Joint Tax has finally acknowledged some “unlocking” effect on capital gains realizations from lower rates, but it still refuses to recognize any revenue impact from faster economic growth or from a stronger stock-market that tax reductions on capital help to promote.

The refusal to take control of Joint Tax has been a major failure of the GOP Congress, and should be a priority as it contemplates tax reform that President Bush has said must be “revenue neutral.” Republicans will have a much better chance of

passing a pro-growth tax reform with lower rates if they have a revenue-estimating bureaucracy that is pledged to accuracy instead of to its old habits. Ways and Means Chairman Bill Thomas, take note.

Mr. ENSIGN. The current method of assessing proposed changes in tax policy, static scoring, assumes tax cuts or tax hikes have no effect on how taxpayers work, save, and invest their money. This model implies that tax policy changes have no effect on our economy, never produce higher or lower revenues, and never cause resources to shift within our federal budget. This is simply incorrect. Tax policy changes can have a huge impact on our economy.

The idea that tax relief and investment incentives will strengthen our economy is not a new one. On April 15, 1986, President Reagan spoke about the positive effects tax relief can have on economic growth. He stated: "whatever you want to call it, supply side economics or incentive economics . . . it's launching the American economy into a new era of growth and opportunity."

What President Reagan stated so eloquently in 1986 holds true today. Economic growth is more easily achieved in an atmosphere where more Americans are able to save and invest their money. Tax relief provides economic growth. When we draft legislation, we should understand not only the cost of tax relief to the federal budget but also the benefits that tax relief provides to the economy. To create jobs. And to ultimately increase tax revenue for the federal government in the long run.

Tax relief provides jobs and profits, no matter who is in the White House and no matter who holds the majority in Congress. It is time for Congress to make choices with a better understanding of the real-world implications of those choices. This will better enable us to determine how much relief we can afford to give to American families.

The debate on dynamic versus static scoring may sound like an inside-the-Beltway squabble but as I have said today, the decision on how to estimate revenues does have important real-world implications. For example, better revenue estimating methods would make it easier to implement tax rate reductions. This would put more money into the pockets of taxpayers, which would have a very real positive effect on our economy.

Today, American families face the challenge of providing food, clothing, and shelter for their children; saving for their children's education; and paying for health care. When government raises taxes, we force parents to work even harder so that they can meet these obligations and have money left over to enjoy a family vacation or put money away for their retirement. I believe in the American family because it is these families that make America great. I trust the American family and believe that they can far better take

care of their needs when Congress demands less of what they earn.

I should clarify that this legislation does not negate Congress' use of the currently used static scoring model. This bill simply directs CBO and the Joint Tax Committee to develop both static and dynamic scoring estimates for Congress to consider. This will create a system that will allow Congress a side-by-side analysis of both scoring methods so that Congress can better make decisions regarding tax policy that will grow our economy and create jobs.

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. 287

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

**SECTION 1. SENSE OF CONGRESS.**

It is the sense of Congress that it is necessary to ensure that Congress is presented with reliable information from the Congressional Budget Office and the Joint Committee on Taxation as to the dynamic macroeconomic feedback effects to changes in Federal law and the probable behavioral responses of taxpayers, businesses, and other parties to such changes. Specifically, the Congress intends that, while not excluding any other estimating method, dynamic estimating techniques shall also be used in estimating the fiscal impact of proposals to change Federal laws, to the extent that data are available to permit estimates to be made in such a manner.

**SEC. 2. ESTIMATES OF THE JOINT COMMITTEE ON TAXATION.**

In addition to any other estimates it may prepare of any proposed change in Federal revenue law, a fiscal estimate shall be prepared by the Joint Committee on Taxation of each such proposed change on the basis of assumptions that estimate the probable behavioral responses of personal and business taxpayers and other relevant entities to that proposed change and the dynamic macroeconomic feedback effects of that proposed change. The preceding sentence shall apply only to a proposed change that the Joint Committee on Taxation determines, pursuant to a static fiscal estimate, has a fiscal impact in excess of \$250,000,000 in any fiscal year.

**SEC. 3. ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE.**

In addition to any other estimates it may prepare of any proposed change in Federal revenue law, a fiscal estimate shall be prepared by the Congressional Budget Office of each such proposed change on the basis of assumptions that estimate the probable behavioral responses of personal and business taxpayers and other relevant entities to that proposed change and the dynamic macroeconomic feedback effects of that proposed change. The preceding sentence shall apply only to a proposed change that the Congressional Budget Office determines, pursuant to a static fiscal estimate, has a fiscal impact in excess of \$250,000,000 in any fiscal year.

**SEC. 4. DISCLOSURE OF ASSUMPTIONS.**

Any report to Congress or the public made by the Joint Committee on Taxation or the Congressional Budget Office that contains an estimate made under this Act of the effect that any legislation will have on revenues shall be accompanied by—

(1) a written statement fully disclosing the economic, technical, and behavioral assumptions that were made in producing that estimate, and

(2) the static fiscal estimate made with respect to the same legislation and a written statement of the economic, technical, and behavioral assumptions that were made in producing that estimate.

**SEC. 5. CONTRACTING AUTHORITY.**

In performing the tasks specified in this Act, the Joint Committee on Taxation and the Congressional Budget Office may, subject to the availability of appropriations, enter into contracts with universities or other private or public organizations to perform such estimations or to develop protocols and models for making such estimates.

By Mr. DeWINE (for himself, Mr. LEAHY, and Mr. DOMENICI):

S. 289. A bill to authorize an annual appropriation of \$10,000,000 for mental health courts through fiscal year 2011; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with Senators LEAHY and DOMENICI, to introduce a bill that would reauthorize "America's Law Enforcement and Mental Health Project Act." This program addresses the impact that mentally ill offenders have had on our criminal justice system and the impact the system has had on the offenders and their special needs.

My interest in, and experience with this issue began over 30 years ago, when I was working as Assistant County Prosecuting Attorney in Greene County, OH, and then as County Prosecutor. What I learned then—and what I have continued to encounter throughout my career in public service—is that our State and local correctional facilities have become way stations for far too many mentally ill individuals in our Nation.

A recent Justice Department study revealed that 16 percent of all inmates in America's State prisons and local jails today are mentally ill. The American Jails Association estimates that 600,000 to 700,000 seriously mentally ill persons each year are booked into local jails, alone. In Ohio, nearly one in five prisoners need psychiatric services or special accommodations. As these statistics make clear, far too many of our Nation's mentally ill persons have ended up in our prisons and jails. In fact, on any given day, the Los Angeles County Jail is home to more mentally ill inmates than the largest mental health care institution in our country.

How did we wind up in this situation? What happens is that all too often, the mentally ill act out their symptoms on the streets. They are arrested for minor offenses and wind up in jail. They serve their sentences or are paroled, but do not receive any treatment for their underlying mental illness. Not surprisingly, they often find themselves right back in the system only a short time later after committing additional—often more serious—crimes.

Throughout this destructive cycle, law enforcement and corrections spend time and money trying to cope with the unique problems posed by these individuals. Certainly, many mentally ill

offenders must be incarcerated because of the severity of their crimes. However, those who commit very minor, non-violent offenses don't necessarily need to be incarcerated; instead, if given appropriate treatment early, their illnesses could be addressed, helping the offenders, while reducing recidivism and decreasing the burdens on our police and corrections officials.

That is why, six years ago Senator DOMENICI and I introduced America's Law Enforcement and Mental Health Project, to begin to identify—early in the process—mentally ill offenders within our justice system and to use the power of the courts to assist them in obtaining the treatment they need.

This program has been a success. In pilot programs around the country, mental health courts have begun to help local communities take steps toward effectively addressing the issues raised by the mentally ill in our justice system, and these steps must continue. The legislation that we are introducing today will help do that. Our bill would establish a Federal grant program to help States and localities develop mental health courts in their jurisdictions. These courts are specialized courts with separate dockets. They hear cases exclusively involving nonviolent offenses committed by individuals with a mental illness. Fundamentally, mental health courts enable State and local courts to offer alternative sentences or alternatives to prosecution for those offenders who could be served best by mental health services. These courts are designed to address the historic lack of coordination between local law enforcement and social service systems and bring them together to work within the criminal justice system.

To deal with the separate needs of mentally ill offenders, these mental health courts are staffed by a core group of specialized professionals, including a dedicated judge, prosecutor, public defender, and court liaison to the mental health services community. The courts promote efficiency and consistency by centrally managing all outstanding cases involving a mentally ill defendant referred to the mental health court.

Mental health court judges decide whether or not to hear each case referred to them. The courts only deal with defendants deemed mentally ill by qualified mental health professionals or the mental health court judge. Similarly, participation in the court by the mentally ill is voluntary; however, once the defendant volunteers for the Mental Health Court, he or she is expected to follow the decision of the court.

For instance, in any given case, the mental health court judge, attorneys, and health services liaison may all agree on a plan of treatment as an alternative sentence or in lieu of prosecution. The defendant must adhere strictly to this court-imposed treatment plan. The court must then provide supervision, and quickly deal with

any failure. This way, the court can quickly deal with any failure of the defendant to fulfill the treatment plan obligations. The mental health courts provide supervision of participants that is more intensive than might otherwise be available, with an emphasis on accountability and monitoring the participant's performance. In this sense, the mental health courts function similarly to drug courts.

Offenders with a mental illness who choose to have their cases heard in a mental health court often do so because that is the first real opportunity that many of these people have to seek treatment. A judicial program offering the possibility of effective treatment—rather than jail time—gives a measure of hope and a chance for rehabilitation to these defendants.

The successes of mental health courts are encouraging and show that we can improve the health and safety of our communities through these programs. In Ohio, the Alcohol, Drug and Mental Health Services Board which serves Athens, Hocking and Vinton Counties, began operating its program on August 2003 after receiving a mental health court grant under the original America's Law Enforcement and Mental Health Project Act. Success stories from this program are numerous, but let me focus on one individual here. D.L. is a 53 year old man who struggled with Bipolar Disorder for years. Arrested for trespassing in 2003, D.L. was the ideal candidate for the Mental Health Court. Having completed individual counseling, and never missing a single psychiatric appointment, D.L. completed the program last May. He is now viewed as a potential mentor for other program participants.

Many jurisdictions across America have established mental health courts as a result of the program that we established four years ago. Our Nation's communities are trying desperately to find the best way to cope with the problems associated with mental illness. Law enforcement agencies and correctional facilities remain challenged by difficulties posed by mental illnesses.

Mental health courts offer a solution. Mental health courts have shown great success, and we must ensure their continuation. Our Nation has long been enriched by the dual ideals of compassion and justice, and these programs are a wonderful embodiment of both ideals. I urge my colleagues to join in support of this important legislation.

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. 289

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

**SECTION 1. AUTHORIZATION OF APPROPRIATIONS.**

Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968

(42 U.S.C. 3793(a)(20)) is amended by striking "fiscal years 2001 through 2004" and inserting "fiscal years 2006 through 2011".

By Mr. BOND (for himself, Mr. TALENT, Mr. INHOFE, Mr. VITTER, Ms. LANDRIEU, Mr. NELSON of Florida, and Mr. CONRAD):

S. 290. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to introduce legislation concerning a critical issue that affects many States—disaster assistance. Last year was one of the worst hurricane seasons that Florida had seen in recent years. The Sunshine State was battered by four hurricanes in a six week period. Many residents of Florida had to evacuate more than three times during last year's hurricane season only to return home and find their homes leveled, their crops uprooted, their neighborhoods flooded, and their dreams shattered.

In my home State of Missouri, we are no strangers to natural disasters. Located smack in the middle of Tornado Alley, Missouri has been hit by some of the largest storms in U.S. history. In May of 2003, a string of tornadoes ripped through the western part of the state causing major damage and devastation.

With two big rivers—the Mississippi and the Missouri—we have also seen our fair share of flooding through the years, including flash flooding. I will never forget when the Mississippi River breached its banks in 1993—one of the most devastating floods in U.S. history. Of the nine Midwestern States affected, the State of Missouri was the hardest hit and State officials estimate that damages totaled \$3 billion.

One specific example of the benefits of disaster mitigation in flash-flood situations comes to mind when I think of the City of Union, located about 45 minutes from St. Louis, where many of the residents suffered tremendous damage from a severe flash flood in May of 2000. After the flood, the City of Union applied to the State of Missouri Emergency Management Agency to seek help in a demolition and acquisition project. With the mitigation grant money, 17 properties were acquired in residential areas with substantial damage. These properties are now deed restricted for "open space," which will prevent future development and the potential for flash flood related deaths in that area because many of the homes and people will no longer be in harm's way. This is an excellent example of the value of disaster and mitigation money invested by the Federal, State and local governments.

The disaster mitigation program has also been used to provide grant money to an individual, as opposed to a municipality. In some instances, these homeowners may be located in areas highly susceptible to tornadoes. Often

times, disaster mitigation grants have been issued to individual homeowners enabling them to build storm shelters underneath their homes, ultimately saving lives.

Over the years, the State of Missouri has worked with the Federal Emergency Management Agency (FEMA) to build structures that prevent flooding and other damage from occurring when natural disasters strike. Time and time again, FEMA has come to the rescue by establishing funding for disaster relief and mitigation activities within the State of Missouri and in other states across the country.

Having served as the Chairman of the Senate Appropriations Subcommittee on VA, HUD, and Independent Agencies, which until recently oversaw FEMA, I know first hand the value of the agency's disaster mitigation grant programs—the Hazards Mitigation Grant Program (HGMP), the Pre-Disaster Mitigation program (PDM), and the Flood Mitigation Assistance (FMA) program. Designed to manage future emergencies, these programs have been essential to countless communities, and without them, thousands of lives would be in jeopardy.

Last Congress, some very disturbing news was brought to my attention. According to a June 2004 legal memorandum issued by the Internal Revenue Service (IRS), FEMA mitigation grants may be subject to income taxation. While some may argue that this is merely the IRS's interpretation of the statute, it is clearly the position the IRS intends to take against American taxpayers whose only recourse will be to fight the agency in court.

Let me tell you what this means for the American taxpayer. In my example of Union, Missouri, it is the individuals whose homes have been purchased by the city who ultimately will be forced to pay taxes on the proceeds of the buyout. For the homeowner building a storm shelter with grant money, he or she might be taxed upon receipt of the grant.

I must say that I am absolutely stunned by this determination by the IRS!! How in the world could the IRS possibly think that Congress intended to tax these types of grants to prevent natural disasters, especially when we went out of our way to ensure that disaster-relief payments to individuals recovering from a hurricane, flood, tornado or other natural disaster are not subject to income taxes?

Today, I am offering a bill that will stop the IRS in its tracks and prevent the taxation of disaster mitigation grants. This language will ensure that any federal grants to construct or modify property to mitigate future disaster damage will not be deemed to be income by the IRS's tortured reasoning. This bill will ensure that any grants currently out there, especially in light of the current hurricanes that have happened, are not subject to tax. In addition, there should be no inference by this legislation that Congress intended

such grants to be taxable prior to the effective date of this legislation.

Why is this important? Why am I out here today? Because the Missouri and Mississippi Rivers rise, because tornadoes will ravage through the state once again, and because flash flooding can decimate an entire community. The last thing Americans who are working to prevent such potential destruction need is for government-grant funding to be subject to tax. My bill ensures that such taxes do not see the light of day.

I thank the original cosponsors of this bill, Senators TALENT, INHOFE, VITTER, CONRAD, LANDRIEU, and NELSON, for their support, and I urge my other colleagues to join us. Finally, Mr. President, I ask unanimous consent that the bill and a letter from the Stafford Act Coalition be printed in the RECORD.

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

S. 290

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

**SECTION 1. EXCLUSION FROM GROSS INCOME FOR CERTAIN DISASTER MITIGATION PAYMENTS.**

(a) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsection:

“(g) CERTAIN DISASTER MITIGATION PAYMENTS.—Gross income shall not include the value of any amount received directly or indirectly as payment or benefit by the owner of any property for hazard mitigation with respect to the property pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Act.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after December 31, 2004.

Hon. CHRISTOPHER “KIT” BOND,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR BOND: The undersigned organizations are writing to you as members of the Stafford Act Coalition to support your legislation to prevent taxation of federal assistance given to disaster victims for mitigation of future disasters. The Stafford Act Coalition represents a wide variety of groups interested in mitigation activities and has been the leading coalition working with Congress on issues related to disaster mitigation for over five years. This bill would make clear that federal disaster mitigation funds should not be taxable. Additionally, this legislation has implications for upcoming hazard mitigation deadlines associated with the disaster aid packages for recent hurricanes and also for tax returns for 2004 that taxpayers will begin filing in January 2005. We believe urgent action must be taken on this bill as soon as possible, especially given the dramatic disasters that the nation has faced in the last year.

The Internal Revenue Service issued a ruling on June 29, 2004 finding that disaster mitigation funds are taxable as income when used to reduce private property damage. Up until this ruling, disaster victims who took advantage of mitigation opportunities to prevent future losses were not taxed by the federal government. This recent ruling will create a disincentive that will discourage

disaster victims from taking advantage of steps to reduce the costs of future disasters, protect property and prevent the loss of lives. With so many open presidentially declared disasters, the matter requires immediate reversal and clarification by Congress.

Your legislation would resolve the problems created by taxing mitigation assistance. According to the Department of the Treasury, some state and local governments are already reporting that disaster victims are declining assistance because the assistance will be taxable. As a result, the National Flood Insurance Fund and the Disaster Relief Fund will continue to be burdened by losses that may have been preventable with appropriate mitigation.

The active, on-going mitigation programs involved are all administered by the Federal Emergency Management Agency (FEMA), now part of the Department of Homeland Security (DHS). These programs include the Flood Mitigation Assistance Program (FMA), the Pre-Disaster Mitigation Program (PDM) and the Hazard Mitigation Grant Program (HMGP). The long term benefits of mitigation include avoidance or minimization of public expenditures for recovery. The federal government's disaster mitigation programs were established as well-conceived public policy to promote public safety, reduce loss of life and reduce the costs to the taxpayers of disaster response, especially repetitive disaster response. While individual property owners may end up less vulnerable to future damage, which the IRS determined to be equivalent to income, projects are by regulation or statute required to be cost-effective to the federal interest. Reducing damage to private property will reduce use of the casualty loss deduction which is a direct loss to the federal treasury. Mitigation lessens the economic impact of disasters by keeping businesses functioning and diminishing the effects on local economies and jobs.

Disaster mitigation programs assist citizens, businesses, and communities to take such steps as elevating buildings in floodplains, flood proofing, seismic reinforcement, acquisitions or relocations, wind protections for roofs and strengthening of window protections. It is contradictory to put in place such programs which not only protect individual properties, but surrounding properties and infrastructure and then tax the individual property owner on this “benefit” which extends well beyond that individual property owner. Generally, what is taxable income for federal purposes is also considered taxable income for state tax purposes, increasing the adverse impact of the IRS ruling.

If the federal government wishes its disaster mitigation programs to truly reduce future losses, it must act to ensure that mitigation funds are not taxed as income. The undersigned groups understand that any mention of claiming mitigation grant funds as income is certain to discourage property owners and local governments from considering the mitigation opportunities provided through the FMA, PDM and HMGP programs. We urge you to find the earliest possible opportunity to clarify the law. We hope to work with you to ensure the immediate passage of this legislation.

Sincerely,

The Stafford Act Coalition, American Planning Association, American Public Works Association, Association of State Flood Plain Managers, Council of State Governments, International Association of Emergency Managers, National Association of Development Organizations, National Association of Flood and Stormwater Agencies, National Emergency Management Association, National League of Cities, National

Rural Electric Cooperative Association, National Wildlife Federation.

Ms. LANDRIEU. Mr. President, in Louisiana, hurricanes and floods are as much a part of life as crawfish boils and Mardi Gras. Twenty percent of the coastal zone of my State lies below sea level, including 80 percent of our largest city New Orleans. Because of this our State has one of the finest and extensive levee systems in the world. Our communities have well developed flood plain management plans. We have built flood walls to protect neighborhoods from rising waters and homeowners in flood zones have built their houses on stilts.

Even with all of this preparation, flood damage does occur. It is estimated that Louisiana suffered more than \$47 million in losses from flooding in 2003. To address this, 377,000 property owners participate in the National Flood Insurance Program—a program that is a real godsend to the people of my State. This program is fully financed by insurance premiums paid by property owners to cover damage to their homes and businesses as a result of flooding. The program also provides funding for property owners to flood-proof their homes under the mitigation grant program. They can use these grants to put their homes on stilts, improve drainage, and obtain water-proofing materials.

All the people in my state ask for is a warning and an opportunity to protect themselves, their homes, and their loved ones from these disasters. Through the state-of-the-art systems developed by the National Weather Service, we can get a warning about a hurricane. We have sophisticated radar to track these storms as they move through the Gulf of Mexico, or up the East Coast. When a Category 4 is coming we can prepare and pray.

But they did not have any warning that the Federal government—more specifically the IRS—would begin to tax the money they received to prevent damages to their property from hurricanes and floods. Yet that has not stopped the IRS from making and implementing one of the most misguided and unfair decisions.

Let me be clear about what this has meant for people in my State. I heard from one man who told me that he was going to be liable for tax on an additional \$218,000 in income for grant money used to do mitigation work on his home. He said he would have to work until he was 90 years old in order to pay off the tax bill.

What is worse, is that this misguided decision by the IRS will hit all natural disaster mitigation assistance covered by the Pre-Disaster Mitigation Program, the Hazard Mitigation Grant Program, and the National Flood Insurance Programs. Instead of protecting their properties, the IRS decision will force people to take risks that they will not be hit by a disaster.

I applaud my colleague from Missouri for introducing this legislation to fix this problem and I am proud to be an original cosponsor. This is not a re-

gional, special-interest bill. Natural disasters can strike almost anywhere at any time. If your citizens have used a federal program to help make their property safer, the tax man will come for them too. I urge my colleagues to support this bill.

By Mr. KOHL (for himself and Ms. SNOWE):

S. 296. A bill to authorize appropriations for the Hollings Manufacturing Extension Partnership Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. KOHL. Mr. President, I am introducing legislation today with Senator SNOWE to reauthorize funding for the Hollings Manufacturing Extension Partnership. This successful Commerce Department program, based in the National Institute of Standards and Technology, is a nationwide network of Hollings Manufacturing Extension Partnership Centers working with small- and medium-sized manufacturers in all 50 States. These local centers have played a critical role in helping our manufacturers turn out the most advanced products, using cutting edge technology and processes, to prevent these firms from being forced out of the global marketplace.

My State of Wisconsin is a great manufacturing State. Small- and medium-sized manufacturers and a few larger concerns make us the State economy most dependent on manufacturing—save Indiana. Thus, I am keenly aware of the devastating job losses experienced by American manufacturers. In Wisconsin alone, we lost more than 90,000 manufacturing jobs over the last four years.

While 2004 brought encouraging news in which we saw a net gain of 3.1 percent or 15,400 manufacturing jobs in my State, this pace of economic growth will never bring us back to where we were before.

That is why I am committed to doing all I can to help our manufacturers. And that is why I am such a strong supporter of the MEP program, one of the only Federal programs which has provided tangible assistance to the manufacturing sector to help companies stay in business and retain jobs. The MEP program served 18,422 manufacturers in fiscal year 2003 alone, and over the life of the program has assisted more than 184,000 firms across the Nation.

MEP's top areas of assistance are process improvement, quality inspection, business system and management, human resources, plant layout and manufacturing cells and product development. MEP streamlines operations, integrates new technologies, shortens production times and lowers costs, leading to improved efficiency by offering resources to manufacturers, including organized workshops and consulting projects. MEP removes the drag on profits and maximizes the potential of our manufacturing firms.

Wisconsin is the home to two MEP centers which have both had a signifi-

cant impact on the productivity of companies throughout the State. Since 1996, Wisconsin MEP has helped over 1,300 Wisconsin manufacturers improve their productivity and profitability. Over that time WMEP customers have reported a positive impact of nearly \$400 million in improvements attributable to the assistance provided by MEP. And, since 1994, the Northwest Wisconsin Manufacturing Outreach Center, targeting the more rural northwestern part of the State, has provided over 3,189 technical assistance activities to over 942 companies, created or retained 1,979 jobs, and achieved client-reported impacts of over \$132 million.

One of the novel aspects of the MEP program is that it is a Federal-State-private partnership. Federal funding leverages State and private funding. Manufacturers pay reduced fees for the services and States match the Federal funding. In many cases, the Federal component is only one-third of the funding for the program.

Although the MEP program has broad bipartisan support, with 55 senators writing a letter in support of the program last year, we have had to struggle in recent years to ensure that MEP centers receive the funding they deserve. In the last two years, the Administration has proposed deep reductions in the program that would have forced MEP centers around the country to close. In fiscal year 2004, despite Senate support for full funding for the MEP Program, funding was reduced by 60 percent from \$106 million to \$39.6 million. As a result, 58 MEP centers closed and staff was reduced by 15 percent. Working with several other Senators, we succeeded in having amendments adopted on the fiscal year 2005 Defense authorization and appropriations bills to permit and direct the Commerce Department to reprogram unobligated funds to the MEP program in fiscal year 2004 to keep the MEP network intact. Fortunately, in the fiscal year 2005 Omnibus Appropriations bill, MEP received \$109 million and was renamed the Hollings MEP program, in recognition of the strong support Senator HOLLINGS gave this program during his tenure in the Senate.

Next week the President will be sending us his proposed budget for fiscal year 2006. I am deeply concerned at reports that indicate that the Administration intends to propose yet again to cut this vital program. We have introduced this legislation today as a sign that there continues to be bipartisan support for the Manufacturing Extension Partnership. I hope that these reports were incorrect and that the Administration recognizes that we cannot abandon our small- and medium-sized manufacturers. They are the key to economic growth, good paying jobs, and a healthy balance of trade.

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

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

S. 296

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

**SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.**

(a) AMOUNTS FOR FISCAL YEARS 2005 THROUGH 2008.—There are authorized to be appropriated to the Secretary of Commerce for the Hollings Manufacturing Extension Partnership Program of the National Institute of Standards and Technology—

- (1) \$110,000,000 for fiscal year 2005;
- (2) \$115,000,000 for fiscal year 2006;
- (3) \$120,000,000 for fiscal year 2007; and
- (4) \$125,000,000 for fiscal year 2008.

(b) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM DEFINED.—In this section, the term “Hollings Manufacturing Extension Partnership Program” means the program of Hollings Manufacturing Extension Partnership carried out by the National Institute of Standards and Technology under section 26 of the National Institute of Standards and Technology Act (15 U.S.C. 2781), as provided in part 292 of title 15, Code of Federal Regulations.

SUBMITTED RESOLUTIONS

**SENATE RESOLUTION 36—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY**

Mr. SPECTER submitted the following resolution; from the Committee on the Judiciary; which was referred to the Committee on Rules and Administration:

S. RES. 36

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 2005, through September 30, 2005; October 1, 2005, through September 30, 2006; and October 1, 2006, through February 28, 2007, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period of March 1, 2005, through September 30, 2005, under this “resolution shall not exceed \$4,946,007, of which amount (1) not to exceed \$200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$20,000 may be expended for the training of the professional staff of such committee (Under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(B) for the period October 1, 2005, through September 30, 2006, expenses of the committee under this resolution shall not exceed \$8,686,896, of which amount (1) not to exceed \$200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized

by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1936).

(C) For the period October 1, 2006, through February 28, 2007, expenses of the committee under this resolution shall not exceed \$3,698,827, of which amount (1) not to exceed \$200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2005, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2005, through September 30, 2005, October 1, 2005 through September 30, 2006; and October 1, 2006 through February 28, 2007, to be paid from the Appropriations account for “Expenses of Inquiries and Investigations.”

**SENATE RESOLUTION 37—DESIGNATING THE WEEK OF FEBRUARY 7 THROUGH FEBRUARY 11, 2005, AS “NATIONAL SCHOOL COUNSELING WEEK”**

Mrs. MURRAY (for herself, Mr. DORGAN, Mr. JOHNSON, Mr. DODD, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 37

Whereas the American School Counselor Association has declared the week of February 7 through February 11, 2005, as “National School Counseling Week”;

Whereas the Senate has recognized the importance of school counseling through the inclusion of elementary and secondary school counseling programs in the reauthorization of the Elementary and Secondary Education Act of 1965;

Whereas school counselors have long advocated that the education system of the United States must leave no child behind and must provide opportunities for every student;

Whereas personal and social growth results in increased academic achievement;

Whereas school counselors help develop well-rounded students by guiding them through their academic, personal, social, and career development;

Whereas school counselors were instrumental in helping students, teachers, and parents deal with the trauma of terrorism inflicted on the United States on September 11, 2001, and the aftermath of that trauma;

Whereas students face myriad challenges every day, including peer pressure, depression, and school violence;

Whereas school counselors are usually the only professionals in a school building that are trained in both education and mental health;

Whereas the roles and responsibilities of school counselors are often misunderstood, and the school counselor position is often among the first to be eliminated in order to meet budgetary constraints;

Whereas the national average ratio of students to school counselors of 485-to-1 is more than double the 250-to-1 ratio recommended by the American School Counselor Association, the American Counseling Association, the American Medical Association, the American Psychological Association, and other organizations; and

Whereas the celebration of “National School Counseling Week” would increase awareness of the important and necessary role school counselors play in the lives of students in the United States: Now, therefore, be it

*Resolved,*

**SECTION 1. DESIGNATION OF NATIONAL SCHOOL COUNSELING WEEK.**

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week of February 7 through February 11, 2005, as “National School Counseling Week”.

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week of February 7 through February 11, 2005, as “National School Counseling Week”; and

(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies and activities that promote awareness of the role school counselors perform in the school and the community at large to prepare students for fulfilling lives as contributing members of society.

**AUTHORITY FOR COMMITTEES TO MEET**

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Thursday, February 3, 2005. The purpose of this hearing will be to examine the effects of Bovine Spongiform Encephalopathy (BSE) on U.S. imports and exports of cattle and beef.

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

COMMITTEE ON ARMED SERVICES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 3, 2005, at 10 a.m., in open session to receive testimony on U.S. military operations and stabilization activities in Iraq and Afghanistan.