of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 756

At the request of Mr. BENNETT, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 757

At the request of Mr. CHAFEE, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Maine (Ms. COLLINS) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 782

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 782, a bill to amend title 37, United States Code, to authorize travel and transportation for family members of members of the Armed Forces hospitalized in the United States in connection with non-serious illnesses or injuries incurred or aggravated in a contingency operation, and for other purposes.

S. 785

At the request of Mr. LOTT, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 785, a bill to amend the Internal Revenue Code of 1986 to modify the small refiner exception to the oil depletion deduction.

S. 802

At the request of Mr. DOMENICI, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 802, a bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 803

At the request of Mr. COLEMAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 803, a bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

S. 850

At the request of Mr. FRIST, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 850, a bill to establish the Global Health Corps, and for other purposes.

S. 894

At the request of Mr. ENZI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 894, a bill to allow travel between the United States and Cuba.

S. RES. 117

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 117, a resolution designating the week of May 9, 2005, as ''National Hepatits B Awareness Week.''

S. RES. 121

At the request of Mr. COLEMAN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. Res. 121, a resolution supporting May 2005 as ''National Better Hearing and Speech Month'' and commending those states that have implemented routine hearing screening for every newborn before the newborn leaves the hospital.

AMENDMENT NO. 573

At the request of Mr. SHELBY, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Rhode Island (Mr. REED) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of amendment No. 573 proposed to H.R. 3, a bill Reserved.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD:

S. 911. A bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services; to the Committee on Finance.

Mr. CONRAD. Mr. President, today I am introducing the Improving Access to Nurse-Midwifery Care Act of 2005. For too many years, certified nurse midwives, CNMs, have not received adequate reimbursement under the Medicare program, despite evidence that shows the quality of care and outcomes for services provided by CNMs are comparable to obstetricians and gynecologists. My legislation takes important steps to improve reimbursement for these important healthcare providers.

There are approximately three million disabled women on Medicare who are of childbearing age; however, if they choose to utilize a CNM for ''well women'' services, the CNM is only reimbursed at 65 percent of the physician fee schedule. In practical terms, the typical well-woman visit costs, on average, $50. But Medicare currently reimburses CNMs in rural areas only $14 for this visit, which could include a pap smear, mammogram, and other precancer screenings. CNMs administer the same tests and incur the same costs as physicians but receive only 65 percent of the physician fee schedule for these services. This reduced payment is unfair and does not adequately reflect the services CNMs provide to beneficiaries. At this incredibly low rate of reimbursement, the Medicare Payment Advisory Committee, MedPAC, agrees that a CNM simply cannot afford to provide services to Medicare patients and has supported increasing reimbursement for CNMs.

My legislation would make several changes to improve the ability of CNMs and certified midwives, CMs, to effectively serve the Medicare-eligible population. First, and most importantly, my bill recognizes the need to increase Medicare reimbursement for CNMs by raising the reimbursement level from 65 percent to 100 percent of the physician fee schedule. CNMs provide the same care as physicians; therefore, it is only fair to reimburse CNMs at the same level.

In addition, the Improving Access to Nurse-Midwifery Care Act would guarantee payment for graduate medical education and includes technical corrections that will clarify the reassignment of billing rights for CNMs who are employed by others. Finally, my bill would establish recognition for a certified midwife, CM, to provide services under Medicare. Despite the fact that CNMs and CMs provide the same services, Medicare has yet to recognize CMs as eligible providers. My bill would change this.

This bill will enhance access to ''well woman'' care for thousands of women in underserved communities and make several needed changes to improve access to midwives. I urge my colleagues to support this legislation.

By Mr. FEINGOLD (for himself, Mr. LAUTENBERG, Mr. LEAHY, Mr. KERRY, Mr. JEFFORDS, Mrs. BOXER, Mr. DAYTON, Mr. SCHUMER, and Mr. DURBIN):

S. 912. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, today I am introducing important legislation to affirm Federal jurisdiction over the waters of the United States. I am pleased to have three members of the Environment and Public Works Committee—the Senator from Vermont, Mr. JEFFORDS, the Senator from New Jersey, Mr. LAUTENBERG, the Senator from California, Mrs. BOXER—as original cosponsors of this bill. I also thank Senators DAYTON, KERRY, SCHUMER, and DURBIN for joining me in introducing this important legislation.

In the U.S. Supreme Court's January 2001 decision, Solid Waste Agency of Northern Cook County versus the Army Corps of Engineers, a 5 to 4 majority limited the authority of Federal agencies to use the so-called migratory bird rule as the basis for asserting Clean Water Act jurisdiction over non-

navigable, intrastate, isolated wetlands, streams, ponds, and other bodies of water.

This decision, known as the SWANCC decision, means that the Environmental Protection Agency and Army Corps of Engineers can no longer enforce Federal Clean Water Act protection mechanisms to protect a waterway solely on the basis that it is used as habitat for migratory birds.

In its discussion of the case, the Court went beyond the issue of the migratory bird rule and questioned whether Congress intended the Clean Water Act to provide protection for isolated ponds, streams, wetlands and other waters, as it had been interpreted to provide for most of the last 30 years. While not the legal holding of the case, the Court's discussion has resulted in a wide variety of interpretations by EPA and Corps officials that jeopardize protection for wetlands, and other waters. The wetlands at risk include prairie potholes and bogs, familiar to many in Wisconsin, and many other types of wetlands.

In effect, the Court's decision removed much of the Clean Water Act protection for between 30 percent to 60 percent of the Nation's wetlands. An estimated 60 percent of the wetlands in my home State of Wisconsin lost Federal protection. Wisconsin is not alone. The National Association of State Wetland Managers has been collecting data from States across the country. For example, Nebraska estimates that it will lose protection for more than 40 percent of its wetlands. Indiana estimates it will lose 31 percent of total wetland acreage and 74 percent of the total number of wetlands. Delaware estimates the loss of protection for 33 percent or more of its freshwater wetlands.

These wetlands absorb floodwaters, prevent pollution from reaching our rivers and streams, and provide crucial habitat for most of the Nation's ducks and other waterfowl, as well as hundreds of other bird, fish, shellfish and amphibian species. Loss of these waters would have a devastating effect on our environment.

In addition, by narrowing the water and wetland areas subject to federal regulation, the decision also shifts more of the economic burden for regulating wetlands to state and local governments. My home State of Wisconsin has passed legislation to assume the regulation of isolated waters, but many other States have not. This patchwork of regulation means that the standards for protection of wetlands nationwide are unclear and confusing, jeopardizing the migratory birds and other wildlife that depend on these wetlands.

Since 2001, the confusion over the interpretation of the SWANCC decision has grown. On January 15, 2003, the EPA and Army Corps of Engineers published in the Federal Register an Advanced Notice of Proposed Rulemaking raising questions about the jurisdiction of the Clean Water Act. Simultaneously, they released a guidance memo to their field staff regarding Clean Water Act jurisdiction.

The agencies claim these actions are necessary because of the SWANCC case. But both the guidance memo and the proposed rulemaking go far beyond the holding in SWANCC. The guidance took effect right away and has had an immediate impact. It tells the Corps and EPA staff to stop asserting jurisdiction over isolated waters without first obtaining permission from headquarters. Based on this guidance, waters that the EPA and Corps judge to be outside the Clean Water Act can be filled, dredged, and polluted without a permit or any other long-standing Clean Water Act safeguard.

The rulemaking announced the Administration's intention to consider even broader changes to Clean Water Act coverage for our waters. Specifically, the agencies are questioning whether there is any basis for asserting Clean Water Act jurisdiction over additional waters, like intermittent streams. The possibility for a redefinition of our waters is troubling because there is only one definition of the term ''water'' in the Clean Water Act. The wetlands program, the point source program which stops the dumping of pollution, and the non-point program governing polluted runoff all depend on this definition. Even though the Administration rescinded this proposed rulemaking in December 2003, the policy guidance remains in effect.

If we don't protect a category of waters from being filled under the wetlands program, we also fail to protect them from having trash or raw sewage dumped in them, or having other activities that violate the Clean Water Act conducted in them as well.

Congress needs to re-establish the common understanding of the Clean Water Act's jurisdiction to protect all waters of the U.S.—the understanding that Congress held when the Act was adopted in 1972—as reflected in the law, legislative history, and longstanding regulations, practice, and judicial interpretations prior to the SWANCC decision.

The proposed legislation is very simple. It does three things. First, it adopts a statutory definition of ''waters of the United States'' based on a longstanding definition of waters in the EPA and Corps of Engineers' regulations. Second, it deletes the term ''navigable'' from the Act to clarify that Congress's primary concern in 1972 was to protect the nation's waters from pollution, rather than just sustain the navigability of waterways, and to reinforce that original intent. Finally, it includes a set of findings that explain the factual basis for Congress to assert its constitutional authority over waters and wetlands on all relevant constitutional grounds, including the Commerce Clause, the Property Clause, the Treaty Clause, and Necessary and Proper Clause.

In conclusion, I am very pleased to have the support of so many environmental and conservation groups, as well as organizations that represent those who regulate and manage our country's wetlands, such as: the Natural Resources Defense Council, Earthjustice, the National Wildlife Federation, Sierra Club, American Rivers, the National Audubon Society, U.S. Public Interest Research Group, Defenders of Wildlife, the Ocean Conservancy, Trout Unlimited, the Izaac Walton League, and the Association of State Floodplain Managers. They know, as I do, that we need to re-affirm the Federal Government's role in protecting our water. This legislation is a first step in doing just that.

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. 912

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 ''Clean Water Authority Restoration Act of 2005''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To reaffirm the original intent of Congress in enacting the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816) to restore and maintain the chemical, physical, and biological integrity of the waters of the United States.

(2) To clearly define the waters of the United States that are subject to the Federal Water Pollution Control Act.

(3) To provide protection to the waters of the United States to the fullest extent of the legislative authority of Congress under the Constitution.

SEC. 3. FINDINGS.

Congress finds the following:

(1) Water is a unique and precious resource that is necessary to sustain human life and the life of animals and plants.

(2) Water is used not only for human, animal, and plant consumption, but is also important for agriculture, transportation, flood control, energy production, recreation, fishing and shellfishing, and municipal and commercial uses.

(3) In enacting amendments to the Federal Water Pollution Control Act in 1972 and through subsequent amendment, including the Clean Water Act of 1977 (91 Stat. 1566) and the Water Quality Act of 1987 (101 Stat. 7), Congress established the national objective of restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States and recognized that achieving this objective requires uniform, minimum national water quality and aquatic ecosystem protection standards to restore and maintain the natural structures and functions of the aquatic ecosystems of the United States.

(4) Water is transported through interconnected hydrologic cycles, and the pollution, impairment, or destruction of any part of an aquatic system may affect the chemical, physical, and biological integrity of other parts of the aquatic system.

(5) Protection of intrastate waters, along with other waters of the United States, is necessary to restore and maintain the chemical, physical, and biological integrity of all waters in the United States.

(6) The regulation of discharges of pollutants into interstate and intrastate waters is

an integral part of the comprehensive clean water regulatory program of the United States.

(7) Small and periodically-flowing streams comprise the majority of all stream channels in the United States and serve critical biological and hydrological functions that affect entire watersheds, including reducing the introduction of pollutants to large streams and rivers, and especially affecting the life cycles of aquatic organisms and the flow of higher order streams during floods.

(8) The pollution or other degradation of waters of the United States, individually and in the aggregate, has a substantial relation to and effect on interstate commerce.

(9) Protection of the waters of the United States, including intrastate waters, is necessary to prevent significant harm to interstate commerce and sustain a robust system of interstate commerce in the future.

(10) Waters, including wetlands, provide protection from flooding, and draining or filling wetlands and channelizing or filling streams, including intrastate wetlands and streams, can cause or exacerbate flooding, placing a significant burden on interstate commerce.

(11) Millions of people in the United States depend on wetlands and other waters of the United States to filter water and recharge surface and subsurface drinking water supplies, protect human health, and create economic opportunity.

(12) Millions of people in the United States enjoy recreational activities that depend on intrastate waters, such as waterfowl hunting, bird watching, fishing, and photography and other graphic arts, and those activities and associated travel generate billions of dollars of income each year for the travel, tourism, recreation, and sporting sectors of the economy of the United States.

(13) Activities that result in the discharge of pollutants into waters of the United States are commercial or economic in nature.

(14) States have the responsibility and right to prevent, reduce, and eliminate pollution of waters, and the Federal Water Pollution Control Act respects the rights and responsibilities of States by preserving for States the ability to manage permitting, grant, and research programs to prevent, reduce, and eliminate pollution, and to establish standards and programs more protective of a State's waters than is provided under Federal standards and programs.

(15) Protecting the quality of and regulating activities affecting the waters of the United States is a necessary and proper means of implementing treaties to which the United States is a party, including treaties protecting species of fish, birds, and wildlife.

(16) Protecting the quality of and regulating activities affecting the waters of the United States is a necessary and proper means of protecting Federal land, including hundreds of millions of acres of parkland, refuge land, and other land under Federal ownership and the wide array of waters encompassed by that land.

(17) Protecting the quality of and regulating activities affecting the waters of the United States is necessary to protect Federal land and waters from discharges of pollutants and other forms of degradation.

SEC. 4. DEFINITION OF WATERS OF THE UNITED STATES.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (8) through (23) as paragraphs (7) through (22), respectively; and

(3) by adding at the end the following:

''(23) WATERS OF THE UNITED STATES.—The term 'waters of the United States' means all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing, to the fullest extent that these waters, or activities affecting these waters, are subject to the legislative power of Congress under the Constitution.''.

SEC. 5. CONFORMING AMENDMENTS.

The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended—

(1) by striking ''navigable waters of the United States'' each place it appears and inserting ''waters of the United States'';

(2) in section 304(l)(1) by striking ''NAVIGABLE WATERS'' in the heading and inserting ''WATERS OF THE UNITED STATES''; and

(3) by striking ''navigable waters'' each place it appears and inserting ''waters of the United States''.

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

S. 913. A bill to amend title 49, United States Code, to establish a university transportation center to be known as the ''Southwest Bridge Research Center''; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, I rise today to introduce legislation creating the Bridge Research Center at New Mexico State University. I would also like to thank my good friend Senator BINGAMAN for cosponsoring this important bill.

New Mexico State University (NMSU) is uniquely qualified to be the home of the Bridge Research Center. For over three decades NMSU has applied its considerable talents to solving technological problems related to bridge systems. It makes sense that we capitalize on NMSU's history and expertise in this field by establishing the bridge research center.

The Bridge Research Center will develop smart bridge evaluation techniques using advanced sensors and instrumentation. Additionally, the NMSU Bridge Center will improve bridge design methodologies, create new inspection techniques for bridges, and find better ways to conduct nondestructive evaluation and testing. Finally, the Bridge Center will conduct research into high performance materials to address durability and retrofit needs.

I have no doubt that NMSU will apply its extensive capability to develop theoretical concepts into practical solutions for bridge problems all across our country.

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. 913

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 ''Southwest Bridge Research Center Establishment Act of 2005''.

SEC. 2. BRIDGE RESEARCH CENTER.

Section 5505 of title 49, United States Code, is amended by adding at the end the following:

''(k) SOUTHWEST BRIDGE RESEARCH CENTER.—

''(1) IN GENERAL.—In addition to the university transportation centers receiving grants under subsections (a) and (b), the Secretary shall provide grants to New Mexico State University, in collaboration with the Oklahoma Transportation Center, to establish and operate a university transportation center to be known as the 'Southwest Bridge Research Center' (referred to in this subsection as the 'Center').

''(2) PURPOSE.—The purpose of the Center shall be to contribute at a national level to a systems approach to improving the overall performance of bridges, with an emphasis on—

''(A) increasing the number of highly skilled individuals entering the field of transportation;

''(B) improving the monitoring of structural health over the life of bridges;

''(C) developing innovative technologies for bridge testing and assessment;

''(D) developing technologies and procedures for ensuring bridge safety, reliability, and security; and

''(E) providing training in the methods for bridge inspection and evaluation.

''(3) OBJECTIVES.—The Center shall carry out—

''(A) basic and applied research, the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in transportation;

''(B) an education program that includes multidisciplinary course work and participation in research; and

''(C) Aa ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

''(4) MAINTENANCE OF EFFORT.—To be eligible to receive a grant under this subsection, the institution specified in paragraph (1) shall enter into an agreement with the Secretary to ensure that, for each fiscal year after establishment of the Center, the institution will fund research activities relating to transportation in an amount that is at least equal to the average annual amount of funds expended for the activities for the 2 fiscal years preceding the fiscal year in which the grant is received.

''(5) COST SHARING.—

''(A) FEDERAL SHARE.—The Federal share of the cost of any activity carried out using funds from a grant provided under this subsection shall be 50 percent.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of any activity carried out using funds from a grant provided under this subsection may include funds provided to the recipient under any of sections 503, 504(b), and 505 of title 23.

''(C) ONGOING PROGRAMS.—After establishment of the Center, the institution specified in paragraph (1) shall obligate for each fiscal year not less than $200,000 in regularly budgeted institutional funds to support ongoing transportation research and education programs.

''(6) PROGRAM COORDINATION.—

''(A) COORDINATION.—The Secretary shall—

''(i) coordinate the research, education, training, and technology transfer activities carried out by the Center;

''(ii) disseminate the results of that research; and

''(iii) establish and operate a clearinghouse for information derived from that research.

''(B) ANNUAL REVIEW AND EVALUATION.—At least annually, and in accordance with the plan developed under section 508 of title 23,

the Secretary shall review and evaluate each program carried out by the Center using funds from a grant provided under this subsection.

''(7) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this subsection shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.

''(8) AMOUNT OF GRANT.—For each of fiscal years 2005 through 2010, the Secretary shall provide a grant in the amount of $3,000,000 to the institution specified in paragraph (1) to carry out this subsection.

''(9) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $3,000,000 for each of fiscal years 2005 through 2010.''.

Mr. BINGAMAN. Mr. President, I am pleased to join with my colleague Senator DOMENICI today to introduce legislation that I believe will go a long way in helping to improve the safety and durability of the Nation's highway bridges. It is with great pleasure we are today introducing the New Mexico State University Bridge Research Center Establishment Act of 2005.

The purpose of our bill is to authorize the Secretary of Transportation to establish a new University Transportation Center focused on the safety of highway bridges. The new center will lead the Nation in the research and development of technologies for bridge testing and monitoring, procedures for ensuring bridge safety and security, and training in methods of bridge inspection. New Mexico State University is one of the Nation's leaders in bridge research and I believe worthy of being designated as one of the Nation's university transportation centers.

Our highway network is a central component of our economy and fundamental to our freedom and quality of life. America's mobility is the engine of our free market system. Transportation via cars, buses, and trucks plays a central role in our basic quality of life. Much of the food we eat, the clothes we wear, the materials for our homes and offices, comes to us over the 4 million miles of our road network.

One critical element of our highway network is the highway bridges that span streams, rivers, and canyons of our cities and rural areas. Bridges also help traffic flow smoothly by carrying one road over another.

Most highway bridges are easy to overlook. Notable exceptions are New England's covered bridges, the new Zakim Charles River Bridge in Boston, San Francisco's Golden Gate Bridge, and the spectacular Rio Grande Gorge Bridge near Taos, NM. The fact is, according to the Federal Highway Administration, we have about 590,000 highway bridges in this country that are more than 20-feet long. The total bridge-deck area of these 590,000 bridges is an amazing 120 square miles, or slightly smaller in area than the entire city limits of Albuquerque, NM, roughly twice the size of the entire District of Columbia, or five times the area of New York's Manhattan Island. The State of Texas leads the Nation with almost 49,000 bridges, about ten percent of the total. Ohio is second with about 28,000 highway bridges.

A little known and disturbing fact about these 590,000 highway bridges is that nearly 78,000, or 13 percent, are considered to be structurally deficient according to the most recent statistics from the FHWA. The percent of structurally deficient bridges varies widely among the 50 states. For example, this chart shows the top ten states with the highest percentage of deficient bridges.

State	Number of bridges	Number of structurally deficient bridges	Percent of structurally deficient bridges (percent)
Oklahoma	23,312	7,307	31.3
Rhode Island	749	193	25.8
Pennsylvania	22,253	5,464	24.6
Missouri	23,791	5,028	21.1
Iowa	24,902	5,259	21.1
Mississippi	16,838	3,379	20.1
Vermont	2,690	484	18.0
South Dakota	5,961	1,072	18.0
North Dakota	4,507	803	17.8
Nebraska	15,455	2,550	16.5
Michigan	10,818	1,764	16.3

The source is the FHWA National Bridge Inventory System, December 2004

Florida and Arizona have the lowest percentages of structurally deficient bridges at less than 3 percent each.

Structurally deficient bridges are a particular concern in rural areas of our country. According to FHWA's 2002 edition of its Conditions and Performance Report to Congress, 16 percent or rural bridges are structurally deficient compared to only 10 percent of urban bridges. The report estimates the average costs required to maintain the existing 590,000 highway bridges is $7.3 billion per year.

Another surprising fact about our Nation's highway bridges is their age. Almost one-third of all highway bridges are more than 50 years old, and over 10,000 bridges are at least 100 years old. About 4,200 of these century-old bridges are currently rated as structurally deficient.

I do believe the number of deficient bridges in this country should be a concern to all Senators. Ensuring that States and local communities have the funds they need to help correct these deficient bridges will be one of my priorities when Congress reauthorizes TEA–21. However, because there may not be sufficient Federal and State funding to address all of the deficient bridges, it will be important to identify the bridges that are most in need of replacement or rehabilitation.

To ensure the most efficient use of limited resources, Congress should also address the need for new technologies to help States monitor the condition of the Nation's 590,000 highway bridges and determine priorities for repair or replacement. Such monitoring technologies, or ''smart bridges,'' should be quick, efficient, and not damage the bridge in any way. I am very pleased that New Mexico State University is one of the Nation's pioneers in the development of non-destructive methods of determining the physical condition of highway bridges. Such smart bridges can record and transmit information on their current structural condition as well as on the traffic crossing them. Sensors embedded in the concrete monitor the stresses on the bridge as the weather changes or under the weight of vehicles and show how the materials change with age. The information can then be used by engineers to help design more durable and economical bridges. Eventually NMSU's methods could be used to help design better buildings.

In 1998, NMSU installed 67 fiber-optic sensors on an existing steel bridge on Interstate 10 in Las Cruces and converted it into a ''smart bridge.'' This award-winning project was the first application of fiber-optic sensors to highway bridges. In 2000, sensors were incorporated directly in a concrete bridge during construction to monitor the curing of the concrete; the bridge crosses the Rio Puerco on Interstate 40, west of Albuquerque. A third smart bridge, on I10 over University Avenue in Las Cruces, opened in July 2004.

In February 2003 I had an opportunity to tour the facilities at NMSU and to see firsthand the fine facilities and work being conducted on bridge technology. NMSU has an actual 40-foot ''bridge'' in a laboratory on campus to allow studies of instrumentation and data collection.

I will ask unanimous consent that two recent articles describing NMSU's accomplishments on smart bridge technology be printed in the RECORD at the end of my statement.

New Mexico State is also a leader in other areas of bridge inspection. The university has provided training for bridge inspectors for over 30 years. It has also developed expertise in using a virtual reality approach to document a bridge's physical condition.

This is just a glimpse at the high quality bridge research at New Mexico Sate University. The university is widely recognized as national leader in

all aspects of bridge research and technology. I believe it is fully appropriate for NMSU to be recognized as the university technology bridge research center.

The bill we are introducing today authorizes the Secretary of Transportation to establish and operate the New Mexico State University Bridge Research Center. I do believe NMSU has earned this honor. The bill mirrors the language for University Transportation Centers in the Senate-passed SAFETEA from the 108th Congress and provides $40 million in funding over 6 years from the Highway Trust Fund to operate the bridge technology center.

The Federal Highway Administration has long recognized the quality of the work at NMSU and has provided grants to support their outstanding work. In November 2004, NMSU's bridge center was awarded a $400,000 grant to install fiber-sensors in a new bridge over Interstate 10 in Doña Ana, NM. The sensors will relay information about the effects of stress on the bridge long before any signs of aging are visible. This is the fourth bridge in New Mexico to be equipped with the smart bridge technology. NMSU's Dr. Rola Idriss is the principal investigator of these projects.

NMSU's work is also being recognized internationally. Highway departments in Switzerland, Belgium, and Japan are experimenting with the smart bridge technology. In October 2004, NMSU's Dr. David Jauregui and Dr. Ken White were invited speakers for the International Conference on Bridge Inspection and Bridge Management in Beijing, China. Dr. White delivered the keynote address for the conference. NMSU is currently developing a memorandum of agreement with the Chinese bridge community to develop a bridge inspection and management training program.

Congress has also already recognized the fine work at NMSU. For example, at my request, Congress provided $600,000 in 2001 for bridge research at New Mexico State University, $250,000 in 2003, $500,000 in 2004 and $125,000 for the current fiscal year.

The specific purpose of NMSU's Bridge Research Center will be to contribute to improving the performance of the Nation's highway bridges. The center will emphasize five goals: 1. Increasing the number of skilled individuals entering the field of transportation; 2. Improving the monitoring of the structural health of highway bridges; 3. Developing innovative technologies for testing and assessment of bridges; 4. Developing technologies and procedures for ensuring bridge safety, reliability, and security; and 5. Providing training in the methods of bridge inspection and evaluation.

Building on NMSU's research work, the University Technology Center will develop a strong educational component, including degree opportunities in bridge engineering at both the undergraduate and graduate levels. In addition, the center will have a cooperative certificate program for training and professional development. Distance education technology and computer-based learning will allow programs to be offered at any of the universities.

The engineers at New Mexico State University have applied their vast talents, tools, and techniques to solving technological problems with highway bridges for over 30 years. The team is well established and maintains cutting-edge expertise. The members of the team are recognized and respected at the national and international levels through accomplishments in bridge testing, monitoring, and evaluation.

I ask all senators to support the designation of the New Mexico State University Bridge Research Center. I look forward to working this year with the Chairman of the Environment and Public Works Committee, Senator INHOFE, and Senator JEFFORDS, the ranking member, to incorporate this bill into the full 6-year reauthorization of the transportation bill.

I now ask unanimous consent that the letters to which I referred be printed in the RECORD.

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

[From the Albuquerque Journal, Mar. 1, 2004]

NMSU DESIGNS HIGH-TECH BEAMS TO MONITOR SOUNDNESS OF STRUCTURE

(By Andrew Webb)

What if a highway bridge could actually tell you it was wearing out? Or, how about a building that could warn its owners of unseen structural damage after an earthquake?

That's what researchers from New Mexico State University hope to produce by embedding high-tech optical sensors in concrete beams. The six 90-ton beams, each with 120 sensors, will support the westbound lanes of the Interstate 10 overpass at University Avenue in Las Cruces, expected to be completed in July.

When the bridge is complete, the sensors will give federal and state highway departments feedback about the performance of its design, the new high-performance concrete it is made of, and its structural soundness as it ages, says NMSU professor of civil engineering Rola Idriss.

''We'll get information on how the bridge carries its load throughout its entire life,'' said Idriss. She was in Albuquerque last week to help supervise the placement of the sensors and fiber-optic lines in molds at an Albuquerque construction materials business.

The bridge will be the first of its kind in the country, Idriss says. NMSU embedded similar sensors, which are manufactured by the Swiss flrm Smartec, in a much smaller Interstate 40 bridge over the Rio Puerco west of Albuquerque in 2000.

''That research was very promising, so we're taking what we learned on that bridge and putting it on a much larger Interstate bridge,'' says Jimmy Camp, a state bridge engineer with the New Mexico Department of Transportation, which helped fund the $500,000 sensor project along with the Federal Highway Administration.

The total cost of the Las Cruces project, which began last summer, is about $6.3 million.

As the expected lifespan of concrete bridges has gone from about 50 years in the Interstate system's early days to nearly 80, builders are seeking better data on bridge conditions, Camp says.

''We make a lot of assumptions with bridge theory,'' he says.

OPTIC MONITORS

The project entails stringing fiber-optic lines throughout the concrete, through which beams of light are shot. As the beam strains or stretches, the properties of the light change. Those changes are picked up by sensors and relayed to a data collection box near the bridge for eventual analysis by NMSU, which then will give the information to the highway department, Idriss said.

''Those changes can be calibrated to measure the strain,'' she said.

At present, inspection of bridges and other concrete structures is done primarily by visual analysis and electronic sensors on outside surfaces.

''Here, you're actually getting measurements from within,'' Idriss said, adding that the added costs would be insignificant in large projects.

She said she thinks the technology could be applied to other structures, such as buildings.

''It could become an industry standard,'' she said. ''Right now, it's still in its infancy.''

Highway departments in Switzerland, Belgium and Japan are experimenting with similar technology, she said. About 20 of the 560,000 major highway bridges in the U.S. have some sort of onboard sensors to detect changes, vibration and other factors, according to the Federal Highway Administration.

The beams were cast at Albuquerque-based Rinker Prestress, a division of Florida-based Rinker Materials, which employs 75 people at three New Mexico plants.

[From the Associated Press, Oct. 4, 2004]

INTERSTATE 10 BRIDGE TO PROVIDE HOW BRIDGES AGE

LAS CRUCES, N.M.—Sensors monitoring stresses on an Interstate 10 bridge will give researchers information on how materials age.

New Mexico State University tested the technology earlier on a bridge over the Rio Puerco near Albuquerque. It installed the technology in late summer in the I–10 bridge in Las Cruces.

The idea is that the bridge will provide information for researchers on how to build bridges with high-performance concretes, which could save highway departments money in the future, said Wil Dooley, bridge engineer for the Federal Highway Administration's state division.

Inside the bridge's beams are fiber optic sensors that monitor how each component bends and changes in different weather and with varying weights of vehicles.

The sensors carry data from the bridge to a locker-size box near an off ramp, where NMSU scientists download the data each week to a portable computer.

''These newer concretes are more durable and they're going to last longer,'' Dooley said. ''All our calculations for how to build bridges are made on traditional concrete. Studying new concretes in the smart bridge will help us modify those equations and make new bridges that last longer and cost less to build.''

NMSU researchers embedded 120 optical sensors in each of six 90-ton concrete beams in the I–10 overpass. Beams of light are carried by fiber optic lines laced through the beams. As the beam strains or stretches, the properties of the light change.

New Mexico is an ideal location to test stresses on different types of concrete. Hot days and cold nights cause concrete to bend and flex, and that happens more in New Mexico than in many other states, Dooley said.

Rola Idriss, an NMSU civil engineering professor who is developing the smart bridge technology, said the researchers could download information from the sensors remotely, but the I–10 bridge is close to campus.

In the future, when the technology is put into bridges in rural areas, highway departments could monitor them remotely—even monitoring all the bridges in the state from one location, she said.

''This is a trend to the future,'' Idriss said. ''The bridge can give you real data about how things are aging. We can use that data to fix problems early and design better bridges with fewer problems in the future.''

Highway engineers intend to put the technology next into a bridge on U.S. 70 near White Sands National Monument.

That might be ideal for testing remote monitoring systems, Idriss said.

Dooley said the technology also could be used in large projects to sense corrosion and allow problems to be corrected before a catastrophic failure, Dooley said.

Adding sensors does not add much expense. The I–10 bridge cost $6.2 million; the sensors and monitoring equipment, along with the expense of studying the data, ran $500,000 more, with the money coming from the Federal Highway Administration and state Department of Transportation, Idriss said.

''We're basically proving out the technology for them,'' she said. ''The information we gather feeds right back to them. They tell us what they want and we research it.''

By Mr. ALLARD (for himself, Mr. SMITH, Mr. LOTT, and Mr. DURBIN):

S. 914. A bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALLARD. Mr. President, April 27, 2005, marks an important day for health care, especially personnel involved in public health specialties, because it is the day that I introduced the Veterinary Workforce Expansion Act, VWEA. This bill will create a new competitive grant program in the Department of Health and Human Services for capital improvements to the Nation's veterinary medical colleges.

Many Americans do not realize that veterinarians are essential for early detection and response to unusual disease events that could be linked to newly emerging infectious diseases such as monkeypox, SARS, and West Nile Virus, just to name a few. The training and education that veterinarians receive prepares them to address the concerns of bioterrorism and emerging infectious diseases, most of which are transmitted from animals to man. In fact, 80 percent of biothreat agents of concern fall into this category. I believe veterinarians should be our first-responders when it comes to these threats. I know that they are uniquely qualified to address these issues because I have received this training myself. I received my DVM from Colorado State University and have kept my license current every year since I closed my clinic and ran for elected office.

Veterinarians are a unique national resource, as they are the only health professionals trained in multi-species comparative medicine. As a result of this training, the veterinary profession is able to provide an extraordinary link between agriculture and human medicine. The uses made of this link have been extensive, with multiple benefits to society.

Currently, approximately 20 percent, 15,000, of all veterinarians in the United States are I engaged in either private population-health practice with a significant food animal component or public practice in one of its various forms. The need for new graduates entering the field is imperative to preparing the country for the threats of agroterrorism and bioterrorism. If new graduates do not enter these fields, government, nongovernmental organizations, industry, and agribusiness will employ lesser qualified individuals to fill their needs.

There is a critical shortage of veterinarians working in public health areas. The Health Resources and Services Administration, U.S. Department of Agriculture, U.S. Public Health Service, veterinary academia, National Research Council, and the Bureau of Labor Statistics are unified in reporting that the shortage of veterinarians in the workforce will only continue to worsen. Combined with a rapidly growing population and increased human to animal interaction, there is an urgent need to adequately prepare the Nation's veterinary colleges so they may educate the workforce of the future.

The VWEA would allow credentialed schools of veterinary medicine to compete for Federal grant funding under the Department of Health and Human Services. These grants would be for capital costs associated with expanding the existing schools of veterinary medicine or their academic programs in the areas of public health practice. This new grant program will be authorized for 10 fiscal years. At that point, it is my hope and goal that the veterinary medical colleges will be adequately prepared to educate the veterinary workforce for the future.

For more than 100 years, veterinary medical colleges have effectively delivered a core educational program that has enabled veterinarians to adapt and respond to evolving societal needs. Being a veterinarian myself, I want to continue this tradition by expanding existing veterinary colleges. I hope that you will join me in my efforts to protect the Nation's public health by providing much-needed support for veterinary medical education.

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

S. 916. A bill to provide for the release of certain land from the Sunrise Mountain Instant Study Area in the State of Nevada and to grant a right-of-way across the released land for the construction and maintenance of a flood control project; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today to introduce the Orchard Detention Basin Flood Control Act for myself and Senator ENSIGN. This Act will release approximately 65 acres of land managed by the Bureau of Land Management in Clark County, NV; from the Sunrise Mountain Instant Study Area to allow the construction of an important flood control project.

The Orchard Detention Basin project is part of the Clark County Regional Flood Control District's Master Plan to protect the Las Vegas Valley from flooding. This comprehensive floodplain management program is designed to protect private and public lands from flood damage and to save lives in this rapidly growing metropolitan area. When completed, the Orchard Detention Basin project will protect approximately 1,800 acres of urban development from flooding and reduce the magnitude of flooding further downstream.

The boundary change executed by this legislation is needed because a portion of the detention basin project lies within the boundaries of the Sunrise Mountain Instant Study Area. An ''instant study area'' designation places development restrictions on public lands similar to those on wilderness study areas. This designation currently prevents the construction of this important flood control project, leaving the land and residents living downstream vulnerable to flood damage.

Even though the Las Vegas Valley is a desert, flash flooding is an all too common problem affecting the people in Las Vegas. Along with property damage and deaths related to flooding, Clark County residents experience inconvenience resulting from impassable roads during flooding events. Support services such as police, fire and ambulance can also be delayed, creating life-threatening incidents.

I look forward to working with the Energy Committee and my other distinguished friends to move this bill in a timely manner during the current session.

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. 916

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 ''Orchard Detention Basin Flood Control Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNTY.—The term ''County'' means Clark County, Nevada.

(2) MAP.—The term ''map'' means the map entitled ''Orchard Detention Basin'' and dated March 18, 2005.

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

SEC. 3. RELEASE OF CERTAIN LAND IN THE SUNRISE MOUNTAIN INSTANT STUDY AREA.

(a) FINDING.—Congress finds that the land described in subsection (c) has been adequately studied for wilderness designation under section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) RELEASE.—The land described in subsection (c)—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) cooperative conservation agreements in existence on the date of enactment of this Act.

(c) DESCRIPTION OF LAND.—The land referred to in subsections (a) and (b) is the approximately 65 acres of land in the Sunrise Mountain Instant Study Area of the County that is—

(1) known as the ''Orchard Detention Basin''; and

(2) designated for release on the map.

(d) RIGHT-OF-WAY.—The Secretary shall grant to the County a right-of-way to the land described in subsection (c) for the construction and maintenance of the Orchard Detention Basin Project on the land.

By Mr. AKAKA:

S. 917. A bill to amend title 38; United States Code, to make permanent the pilot program for direct housing loans for Native American veterans; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, today I rise to offer legislation that would make the Native American Veteran Housing Loan Pilot Program permanent. In April 1992, I sponsored a bill that established the Native American Veteran Housing Loan Pilot Program. That bill later became Public Law 102–547 and authorized the Department of Veterans Affairs (VA) to establish a pilot program that would provide veterans with assistance in purchasing, constructing, and improving homes through 1997. This pilot program has been extended several times. In fact, last Session Congress extended this pilot program by three years.

Through January of this year, 443 loans were created under this program. It is time to make this program permanent.

The Native American home ownership rate is about half the rate of the general U.S. population. This issue partially stems from the fact that lenders generally require that buyers own the parcel of land on which their homes will be located. This is difficult for many in Indian Country, Alaska, and Hawaii because their homes are on trust lands. Most lenders decline these loan applications because Federal law prohibits a lender from taking possession of Native trust lands in the event of a default. Several Federal programs have been developed to provide home ownership opportunities to Native Americans. The Native American Veteran Housing Loan Program is one such program that has helped to make home ownership a reality for indigenous peoples, particularly Native Hawaiians.

Under this program, VA offers loan guaranties that protect lenders against loss up to the amount of the guaranty if the borrower fails to repay the loan. Previous to the Native American Veteran Housing Loan Program, Native American veterans who resided on these lands were unable to qualify for VA home-loan benefits. With the Native American Veteran Housing Loan Program, indigenous peoples residing on trust lands are now able to use this very important VA benefit.

The Native American Veteran Housing Loan Program is intended to serve veterans who are eligible for homes under the Hawaiian Homes Commission Act, and who reside on Pacific Islands lands that have been communally owned by cultural tradition and on Native American trust lands on the continental United States. This VA-administered program assists Native American veterans by providing them direct loans to build or purchase homes on such lands.

Before VA can make a loan on tribal trust land, the tribe must enter into a Memorandum of Understanding with VA to clarify some of the issues that could arise when administering the program. During fiscal year 2004, VA entered into two Memoranda of Understanding with tribal entities. In addition, VA is currently negotiating nine Memoranda of Understanding with Native American tribes. Trust lands that are eligible for this program include tribally and individually held trusts. Per a Memorandum of Understanding between VA and the Bureau of Indian Affairs (BIA), VA and BIA Regional Offices work to implement this loan program together. Additionally, VA personnel continue to conduct outreach with tribal representatives to solicit assistance in reaching out to tribal members who are veterans.

Per capita, Native Americans have the highest percentage of people serving in the United States Armed Forces. While they represent less that 1 percent of the population, they make up 1.6 percent of the Armed Forces. I want to reiterate that through January of 2005, 443 loans have been made to Native Americans under this program. This allows those who have served our nation so honorably and their families to be a part of the American Dream of home ownership. We need to make the Native American Veteran Housing Loan permanent this year.

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. 917

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

SECTION 1. PERMANENT AUTHORITY FOR HOUSING LOANS FOR NATIVE AMERICAN VETERANS.

(a) PERMANENT AUTHORITY.—Section 3761 of title 38, United States Code, is amended to read as follows:

''§ 3761. Authority for housing loans for Native American veterans

''(a) The Secretary shall make direct housing loans to Native American veterans in accordance with the provisions of this subchapter.

''(b) The purpose of loans under this subchapter is to permit Native American veterans to purchase, construct, or improve dwellings on trust land.''.

(b) CONFORMING AMENDMENTS.—Section 3762 of such title is amended—

(1) in subsection (a), by inserting ''under this subchapter'' after ''Native American veteran'' in the matter preceding paragraph (1);

(2) in subsection (b)(1)(E), by striking ''in order to ensure'' and all that follows and inserting a period;

(3) in subsection (c)(1)(B), by striking ''shall be the amount'' and all that follows in the second sentence and inserting ''shall be such amount as the Secretary considers appropriate for the purpose of this subchapter.'';

(4) in subsection (d)(1), by striking the second sentence;

(5) in subsection (i)—

(A) in paragraph (1), by striking ''of the pilot program'' and all that follows and inserting ''of the availability of direct housing loans for Native American veterans under this subchapter.''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''under the pilot program'' and all that follows and inserting ''under this subchapter'';

(ii) in subparagraph (E), by striking ''in participating in the pilot program'' and inserting ''in participating in the making of direct loans under this subchapter''; and

(6) by striking subsection (j).

(c) CLERICAL AMENDMENTS.—(1) The heading of subchapter V of chapter 37 of such title is amended to read as follows:

''SUBCHAPTER V—HOUSING LOANS FOR NATIVE AMERICAN VETERANS''.

(2) The table of contents for such chapter is amended—

(A) by striking the matter relating to the subchapter heading of subchapter V and inserting the following new item:

''SUBCHAPTER V—HOUSING LOANS FOR NATIVE AMERICAN VETERANS'';

and

(B) by striking the item relating to section 3761 and inserting the following new item:

''3761. Authority for housing loans for Native American veterans.''.

By Mr. OBAMA (for himself, Mr. TALENT, and Mr. DURBIN):

S. 918. A bill to provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security and reduction of greenhouse gas emissions; to the Committee on Finance.

Mr. OBAMA. Mr. President, we have all heard from folks back home about the high price of gasoline. When you pull into a gas station to fill up your tank, you're now paying some of the highest prices of all time.

And when you turn on the news, you see that our dependence on foreign oil keeps us tied to one of the most dangerous and unstable regions in the world. With oil at more than $50 per barrel, some argue that the best way to deal with high gasoline prices is to wait it out—to wait until the world market dynamics change.

I disagree with that mindset. For too long now, we've relied too heavily on foreign oil to fuel our energy needs in this country. This is not good for the United States—not for our economy, not for our national security, and not for our people.

The bill I am introducing today, along with my distinguished colleagues from Illinois and Missouri, is designed to do something about fuel prices and our reliance on foreign oil—something rooted in reality, something achievable in the short term, and something that actually works.

Last week, I visited a gasoline station in Springfield, IL, where along with regular gasoline, a new kind of fuel is offered for consumers—a fuel known as E–85. E–85 is a clean, alternative form of transportation fuel consisting of a blend of 85 percent ethanol and 15 percent gasoline. Ethanol is made from renewable, Midwestern corn, and it is 40–60 cents cheaper per gallon than standard gasoline. Last week, at this Springfield station, regular gasoline was listed at $2.06 and E–85 was selling for $1.69.

Not every car can run on E–85 fuel—but there are millions of cars that can. They're known as ''flexible-fuel vehicles,'' and the auto industry is turning out hundreds of thousands of them every year. And if any of you are wondering whether cars will run as well on E–85 as they would on regular gas, just ask the Indy 500, which recently announced that all of their cars will soon run on E–85 fuel.

The only problem we have now is that we're in short supply of E–85 stations. While there are more than 180,000 gas stations all over America, there are only about 400 E–85 stations. And although E–85 has many environmental benefits and is a higher performing fuel, the fuel economy of E–85 is slightly lower than that of regular gasoline. An additional incentive is needed to help ensure that the cost of this clean fuel remains competitive with that of regular gasoline.

That is why I'm introducing a bill to provide a tax credit of 50% for building an E–85 fuel station and a tax credit of 35 cents per gallon of E–85 fuel. This provision is similar to a provision that already has passed the Senate three times. I hope my colleagues will pass this provision again.

We've talked for too long about energy independence in this country, and I think this bill gives us an opportunity to actually get something done about it. I urge the support of my colleagues of this bill, and I thank the Chair.

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. 918

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''E–85 Fuel Utilization and Infrastructure Development Incentives Act of 2005''.

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

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

Sec. 1. Short title, etc.
Sec. 2. Purpose.
Sec. 3. Findings.
Sec. 4. Incentives for the installation of alternative fuel refueling stations.
Sec. 5. Incentives for the retail sale of alternative fuels as motor vehicle fuel.

SEC. 2. PURPOSE.

The purpose of this Act is to decrease the dependence of the United States on foreign oil by increasing the use of high ratio blends of gasoline with a minimum 85 percent domestically derived ethanol content (E–85) as an alternative fuel and providing greater access to this fuel for American motorists.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The growing United States reliance on foreign produced petroleum and the recent escalation of crude oil prices demands that all prudent measures be undertaken to increase United States refining capacity, domestic oil production, and expanded utilization of alternative forms of transportation fuels and infrastructure.

(2) Recent studies confirm the environmental and overall energy security benefits of high ratio blends of gasoline with a minimum 85 percent domestically derived ethanol content (E–85), especially with regard to the reduction of greenhouse gas emissions from the national on-road passenger car vehicle fleet.

(3) The market penetration of E–85 capable Flexible Fuel Vehicles (FFVs) now exceeds 5,000,000 with an additional 1,000,000 or more FFVs expected to be added annually as automakers continue to respond positively to congressionally provided production incentives.

(4) It is further recognized that actual implementation of the use of E–85 fuel has been significantly underutilized due primarily to the lack of E–85 refueling infrastructure availability and promotion and that such utilization rate will continue to lag unless resources are provided to substantially accelerate national refueling infrastructure development.

(5) Additionally, incentives in the form of tax credits can serve to stimulate infrastructure development and E–85 fuel utilization.

SEC. 4. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified alternative fuel vehicle refueling property.

''(b) LIMITATION.—

''(1) IN GENERAL.—The credit allowed under subsection (a)—

''(A) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(B) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(2) PHASEOUT.—

''(A) IN GENERAL.—In the case of any qualified alternative fuel vehicle refueling property placed in service after December 31, 2010, the limit otherwise applicable under paragraph (1) shall be reduced by—

''(i) 25 percent in the case of any alternative fuel vehicle refueling property placed in service in calendar year 2011, and

''(ii) 50 percent in the case of any alternative fuel vehicle refueling property placed in service in calendar year 2012.

''(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified alternative fuel vehicle refueling property is placed in service by the taxpayer.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified alternative fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail alternative fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year

(referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3),''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5. INCENTIVES FOR THE RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40A the following new section:

''SEC. 40B. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

''(a) GENERAL RULE.—The alternative fuel retail sales credit for any taxable year is 35 cents for each gallon of alternative fuel sold at retail by the taxpayer during such year.

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

''(1) ALTERNATIVE FUEL.—The term 'alternative fuel' means any fuel at least 85 percent of the volume of which consists of ethanol.

''(2) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in this section) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(3) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

''(A) which is capable of operating on an alternative fuel,

''(B) the original use of which commences with the taxpayer,

''(C) which is acquired by the taxpayer for use or lease, but not for resale, and

''(D) which is made by a manufacturer.

''(c) ELECTION TO PASS CREDIT.—A person which sells alternative fuel at retail may elect to pass the credit allowable under this section to the purchaser of such fuel or, in the event the purchaser is a tax-exempt entity or otherwise declines to accept such credit, to the person which supplied such fuel, under rules established by the Secretary.

''(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2010.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the alternative fuel retail sales credit determined under section 40B(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40A the following new item:

''Sec. 40B. Credit for retail sale of alternative fuels as motor vehicle fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. BURNS (for himself, Mr. ROCKEFELLER, Mr. DORGAN, Mr. CRAIG, Mr. DAYTON, Mr. VITTER, Mr. THUNE, Mr. JOHNSON, Mr. BAUCUS, and Mr. COLEMAN):

S. 919. A bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, as the Senate begins the important task of debating the highway bill reauthorization, another critical infrastructure issue comes to mind: railroads. In Montana, we rely heavily on both passenger and freight rail for our transportation needs. However, Montana is served by only one major railroad, resulting in shippers being captive to little or no competition for price or service quality. That lack of competition hurts our competitiveness for agriculture and manufacturing. It drives up the cost of electricity, because of the increased costs for coal. Sometimes, it even costs us jobs in Montana.

To address the problems faced by many captive shippers, I am introducing today the Railroad Competition Act of 2005. I am joined by my colleagues, Senators ROCKEFELLER, DORGAN, CRAIG, DAYTON, VITTER, THUNE, JOHNSON, BAUCUS, and COLEMAN. This legislation will extend competition to many captive rail customers and correct problems in the Surface Transportation Board's implementation of railroad deregulation. Specifically, the legislation ensures that rail customers will receive rate quotes for movements between various points on a railroad's system; frees regional and short line railroads to provide access to additional major systems; provides captive rail customers who cannot afford to participate in expensive rate challenge proceedings access to arbitration; and directs the STB to adopt a more realistic and workable rate reasonableness standard.

In addition to a lack of competition in many markets, the rail industry in America is badly in need of investment into its infrastructure. To address the infrastructure problem, the legislation increases ten-fold the current Railroad Rehabilitation and Infrastructure Financing program. The legislation also expands who is eligible for the loans and loan guarantees, so that qualified shipping entities can also invest in rail infrastructure.

This is about jobs, plain and simple. Last year, when the intermodal hub in Shelby, Montana was closed, over 40 jobs were lost. The Port Authority in Shelby reached out to the railroads to persuade them to keep the hub open, but without competition, the single supplier chose to close. Those jobs are real losses in Shelby, a town of a little over 3,000 people. As high rail rates make U.S. products less competitive, imports flow in to fill the gap—and that costs us jobs. I understand that the rail industry employs a lot of people, and I am glad for those jobs. But we can not let lack of choice and competition in price and service cost us jobs in other areas.

Since passage of the Staggers Act in 1980, the railroad industry has experienced significant consolidation, from over 40 major railroads down to 7. Roughly 35 percent of the rail traffic in America is captive, driving up the cost of transportation and placing a heavy burden on shippers.

Captive shippers, like my farmers in Montana, have nowhere to go to seek relief. The Surface Transportation Board, the watchdogs over the rail system, is a complicated and expensive mess that hardly provides a fair forum for disputes. To bring a rate reasonableness case, challenging the unfair rates charged to captive shippers, a rail customer must first file huge fees—fees that will double in the coming weeks. Then, the customer must construct a hypothetical railroad and prove to the STB that rail transportation theoretically can be provided at a lower fee. That process can cost over $2 million per case, and take years to see through. At the end, even if the shipper wins, all he gets is a lower fee in the future. Too often, damages for past overcharging are not awarded. Meanwhile, the railroad sits idly by, under no obligation to justify its rates, and continues to collect the exorbitant fees that are under dispute. This system can not stand.

The Railroad Competition Act of 2005 directs the STB to address this nonsensical system, and develops a final offer arbitration option, allowing shippers to take their case to a neutral arbiter. These provisions are necessary, not to

punish railroads, but to develop a level playing field that keeps my small businesses and agriculture producers in business.

Railroads are an essential part of our nation's infrastructure, a vast system that includes our highways, railroads, electric transmission lines, pipelines, and digital infrastructure. In a rural state like Montana, we rely on the rails to cover long distances efficiently, so rail must remain a viable shipping option. We need to achieve affordability, while still allowing sustainability for the railroads. There is a necessary public interest in our shared infrastructure, and the Railroad Competition Act of 2005 is designed to address legitimate public concerns, in Montana and around the nation, about rail operations. I look forward to working with my colleagues to secure passage of this important legislation.

Mr. ROCKEFELLER. Mr. President, it is my pleasure today to join with my colleagues Senator BURNS, Senator DORGAN, Senator CRAIG, Senator DAYTON, Senator VITTER, Senator JOHNSON, Senator THUNE, Senator COLEMAN, and Senator BAUCUS to introduce the Railroad Competition Act of 2005. This legislation encourages the competition and consumer protection in the freight railroad market that Congress intended when it partially deregulated the industry in 1980 with the passage of the Staggers Act.

Introduction of legislation in this vein is a bit of a ritual for this Senator. West Virginia industries depend on efficient and dependable rail service at fair prices to move their products to market. This is a perfectly reasonable goal. However, for shippers without competitive rail access—referred to as captive shippers—it is a cruel and impossible dream. I have tried for years, with partners from both sides of the aisle and all parts of the country, to change the status quo, and improve the economic situation for rail shippers and retail shoppers. This is the seventh time since 1985 I have sponsored legislation to address this issue, and the fifth congress in a row in which I have worked closely with my good friends CONRAD BURNS and BYRON DORGAN to help shippers and their customers. And I won't give up until I actually succeed.

Predictably, the railroads will overreact to this bill with scathing accusations of what we are doing. In truth, we intend nothing more radical than helping shippers, consumers, and the railroads themselves, reap the benefits of the basic principles of capitalism—the ability of sophisticated actors to conduct arms-length negotiations for competition, service, and fair prices. Currently, Class I railroads overcharge and underserve captive shippers with impunity, and with an antitrust exemption preventing meaningful oversight by Congress. Customers have no power. This means higher prices for electricity, food, medicine, paper products; the chemicals to protect our water supply and crops, and the basic ingredients of the plastics in many of the goods we purchase. This is crucial to protecting commerce in the United States. So far, we have been thwarted, though we remain undeterred in our efforts and confident of the validity of our objectives.

In the 1970s, Congress observed a bloated freight rail network, unprofitable railroads, and service was anything but efficient and dependable. When the Staggers Act was passed in 1980, Congress gave a green light to deregulation of the railroad industry. But, as with the deregulation of every other industry that Congress has allowed, there were to be constraints on the ability of railroads to abuse shippers left captive to just one railroad. The Staggers Act left it to the Interstate Commerce Commission (ICC) to watch over a partially deregulated industry carrying out Staggers' dual goals: Improving the financial health and viability of the railroads; and improving and maintaining service for shippers. The ICC was responsible for ensuring fair treatment and reasonable rates for those shippers made captive by mergers or business decisions allowed under Staggers.

The success of Staggers has been completely one-sided. Captive rail shippers in my state of West Virginia have told me—since before I came to the United States Senate—that service was horrible and rates being charged were too high. That is still true today. When I was first running for the Senate, the country was served by about 40 ''Class I'' railroads. After Staggers the railroad industry ''rationalized'' its routes—meaning it dropped unprofitable lines and left more and more shippers captive to just one railroad.

A virtually unimpeded string of rail mergers during the last 25 years has only compounded the problem. The number of Class I railroads has dropped to seven. Four of these—CSX and Norfolk Southern in the East and Burlington Northern Santa Fe and the Union Pacific in the West—completely dominate the industry, accounting for about 90 percent of the freight rail traffic in the nation.

This is simple. Fewer market participants mean less competition, and less competition opens up the possibility of the abuse of local monopoly power. Under the misadministration of the Staggers Act, first by the ICC, and later by its successor agency the Surface Transportation Board (STB), abuse of captive shippers has not only gotten worse, but it has been unjustly bestowed a veneer of propriety by a series of unwise administrative decisions and at least one court case that gave grudging deference to an agency, the STB, that has failed to carry out the clear directions of Congress. The STB, to which shippers have looked for a solution, has become a facilitator of the problem.

The goals of the Railroad Competition Act are really quite mundane. My colleagues and I hope only to give life to a freight rail system originally envisioned by the drafters of the Staggers Act. We hope to send to the President a bill that will allow captive shippers the most basic right in business negotiations: They will be able to get the railroads that ship their products simply to quote a rate for the service.

My colleagues may be amazed to find out that the STB's current reading of the Staggers Act allows shippers no such right. Our legislation will simply require railroads to tell their customers the cost of moving a certain quantity of product from their manufacturing facility to their customer. Point A to Point B. Nothing in business is more basic, but it is a basic of business negotiations captive shippers do not currently enjoy. Additionally, our legislation also would do the following: clarifies that the STB shall promote competition among rail carriers, helping to maintain both reasonable freight rail rates and consistent and efficient rail service; creates a system of ''final offer'' arbitration for matters before the STB; authorizes the STB to remove so-called ''paper barriers'' that prevent short-line and regional railroads from providing improved service to shippers; requires STB to act in the public interest and removes required showing of railroads' anti-competitive conduct; caps filing fees for STB rate cases at the level of federal district courts (reducing filing fee from the current fee $65,000, which is to be doubled in 2005); calls for a Department of Transportation (DOT) study of rail competition; allows elected officials and state railroad regulators to petition the STB for declarations of ''areas of inadequate rail competition,'' with appropriate remedies; creates position of Rail Customer Advocate at U.S. Department of Agriculture (USDA); and expands infrastructure modernization loan guarantee program.

In closing I would suggest that, rather than the highly charged arguments we have engaged in over the years, my colleagues encourage the railroads to take shippers' concerns seriously, and that we all work to create a freight rail marketplace made up of companies hungry, in the best capitalist sense of that word, to do business. That is the goal of the Railroad Competition Act, and I look forward to its consideration by the full Senate.

By Mr. CORNYN:

S. 920. A bill to amend chapter 1 of title 3, United States Code, relating to Presidential succession; to the Committee on Rules and Administration.

Mr. CORNYN. Mr. President, I ask unanimous consent that the bill I am introducing today—to amend chapter 1 of title 3, United States Code, relating to Presidential succession—be printed in the RECORD. I also ask unanimous consent that the section by section analysis titled ''Presidential Succession Act of 2005'' and the letter sent to the chairmen of the RNC and DNC be printed in the RECORD.

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

S. 920

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 ''Presidential Succession Act of 2005''.

SEC. 2. PRESIDENTIAL SUCCESSION.

(a) IN GENERAL.—Section 19(d) of title 3, United States Code, is amended—

(1) in paragraph (1), by inserting '', Secretary of Homeland Security, Ambassador to the United Nations, Ambassador to Great Britain, Ambassador to Russia, Ambassador to China, Ambassador to France'' after ''Secretary of Veterans Affairs'';

(2) in paragraph (2), by striking ''but not'' and all that follows through the period and inserting ''or until the disability of the President or Vice President is removed.'';

(3) in paragraph (3)—

(A) by striking ''be held to constitute'' and inserting ''not require''; and

(B) by adding at the end the following: ''Such individual shall not receive compensation from holding that office during the period that the individual acts as President under this section, and shall be compensated for that period as provided under subsection (c).''; and

(4) by adding at the end the following:

''(4) This subsection shall apply only to such officers that are—

''(A) eligible to the office of President under the Constitution;

''(B) appointed to an office listed under paragraph (1), by and with the advice and consent of the Senate, prior to the time the powers and duties of the President devolve to such officer under paragraph (1); and

''(C) not under impeachment by the House of Representatives at the time the powers and duties of the office of President devolve upon them.''.

(b) CONFORMING AMENDMENTS.—Section 19 of title 3, United States Code, is amended—

(1) in subsection (b), by striking ''as Acting President'' and inserting ''to act as President''; and

(2) in subsection (e)—

(A) in the first sentence, by striking ''(a), (b), and (d)'' and inserting ''(a) and (b)''; and

(B) by striking the second sentence.

SEC. 3. SENSE OF CONGRESS REGARDING VOTES BY ELECTORS AFTER DEATH OR INCAPACITY OF NOMINEES.

It is the sense of Congress that—

(1) during a Presidential election year, the nominees of each political party for the office of President and Vice President should jointly announce and designate on or before the final day of the convention (or related event) at which they are nominated the individuals for whom the electors of President and Vice President who are pledged to vote for such nominees should give their votes for such offices in the event that such nominees are deceased or permanently incapacitated prior to the date of the meeting of the electors of each State under section 7 of title 3, United States Code;

(2) in the event a nominee for President is deceased or permanently incapacitated prior to the date referred to in paragraph (1) (but the nominee for Vice President of the same political party is not deceased or permanently incapacitated), the electors of President who are pledged to vote for the nominee should give their votes to the nominee of the same political party for the office of Vice President, and the electors of Vice President who are pledged to vote for the nominee for Vice President should give their votes to the individual designated for such office by the nominees under paragraph (1);

(3) in the event a nominee for Vice President is deceased or permanently incapacitated prior to the date referred to in paragraph (1) (but the nominee for President of the same political party is not deceased or permanently incapacitated), the electors of Vice President who are pledged to vote for such nominee should give their votes to the individual designated for such office by the nominees under paragraph (1);

(4) in the event that both the nominee for President and the nominee for Vice President of the same political party are deceased or permanently incapacitated prior to the date referred to in paragraph (1), the electors of President and Vice President who are pledged to vote for such nominees should vote for the individuals designated for each such office by the nominees under paragraph (1); and

(5) political parties should establish rules and procedures consistent with the procedures described in the preceding paragraphs, including procedures to obtain written pledges from electors to vote in the manner described in such paragraphs.

SEC. 4. SENSE OF CONGRESS ON THE CONTINUITY OF GOVERNMENT AND THE SMOOTH TRANSITION OF EXECUTIVE POWER.

It is the sense of Congress that during the period preceding the end of a term of office in which a President will not be serving a succeeding term—

(1) that President should consider submitting the nominations of individuals to the Senate who are selected by the President-elect for offices that fall within the line of succession;

(2) the Senate should consider conducting confirmation proceedings and votes on the nominations described under paragraph (1), to the extent determined appropriate by the Senate, between January 3 and January 20 before the Inauguration; and

(3) that President should consider agreeing to sign and deliver commissions for all approved nominations on January 20 before the Inauguration to ensure continuity of Government.

SECTION-BY-SECTION ANALYSIS

The Presidential Succession Act of 2005—introduced by U.S. Senator JOHN CORNYN (R–TX) and U.S, Representative BRAD SHERMAN (D–CA) on April 27, 2005—makes a number of significant improvements to the current Presidential Succession Act, in order to ensure the continuity of the Presidency in the event of a terrorist attack or other crisis. This legislation implements Article II, Section 1, Clause 6 of the U.S. Constitution, which provides that ''the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.''

This legislation is a more modest version of two bills introduced by Senator CORNYN and Representative SHERMAN in the last Congress to reform the Presidential Succession Act. Because many constitutional experts believe that members of Congress are constitutionally ineligible to serve in the line of succession, both S. 2073 and H.R. 2749 would have addressed a potential constitutional crisis by removing the House Speaker and Senate President pro tempore from the line of succession. By contrast, the 2005 version of the bill does not attempt to address that particular controversy, but instead leaves the Speaker and President pro tempore in the line of succession. It is hoped that Congress will enact the Presidential Succession Act of 2005 quickly, and that the more controversial but nevertheless critical constitutional issues arising out of current law can be addressed as well through separate legislation.

SECTION 1. SHORT TITLE.

SECTION 2. PRESIDENTIAL SUCCESSION ACT REFORMS.

Amending the line of succession. This provision adds the Secretary of Homeland Security to the line of succession. Under current law, the Secretary of Homeland Security does not fall within the line of succession. During the 108th Congress, the Senate approved legislation to place the Secretary of Homeland Security right behind the Attorney General in the line of succession, but that proposal ran into opposition in the House. This provision attempts to avoid that controversy by placing the Secretary of Homeland Security at the end of the current line of succession.

In addition, this provision addresses the difficulty that arises from the fact that all current members of the line of succession generally work and live in the greater Washington, D.C. area. Due to current law, a catastrophic incident in the D.C. area could theoretically eliminate the entire line of succession and leave the nation without anyone legally eligible to serve as President for an extended period of time. Accordingly, this provisions adds at the end of line of succession senior federal officials who do not generally work and live in the D.C. area specifically, the U.S. Ambassador to the United Nations and the U.S. Ambassadors to each of the four other permanent members of the U.N. Security Council (Great Britain, Russia, China, and France).

Reforming Cabinet succession. This provision eliminates the requirement that a cabinet secretary must resign in order to succeed to the Presidency. By doing so, this provision helps ensure that a cabinet secretary will not hesitate to take the reins, by ensuring that there will be a cabinet position to which the officer may return after any period of service as Acting President. This provision also helps cure a potential constitutional defect in current law; some constitutional scholars argue that only a current ''officer'' may act as President under Article II.

In addition, this provision addresses the so-called ''bumping off'' problem in current law. The current Presidential succession statute puts the Executive Branch in a precarious position vis-a-vis Congress, because it allows the House Speaker or Senate President pro tempore to assert their right under current law to take over the reins at any time from a cabinet officer who holds office as Acting President. This aspect of current law raises serious constitutional separation of powers problems, because it effectively places the Presidency at the mercy of Congressional leaders. In addition, current law raises a potential constitutional problem because Article II, Section 1, Clause 6 of the U.S. Constitution states that any officer who shall act as President ''shall act accordingly, until the Disability be removed, or a President shall be elected.'' This provision eliminates this ''bumping off'' problem in current law by eliminating the ability of the House Speaker or Senate President pro tempore to assert their right under current law to take over the reins from a cabinet officer holding office as Acting President.

Finally, this provision ensures that only individuals who are actually confirmed to the Cabinet-level office are eligible to serve in the line of succession. By doing so, this provision prevents lower-level officers who rise to the position of an acting Cabinet secretary from then acting as President.

Section 3. Presidential succession during the Presidential selection process. This provision states the sense of Congress that steps must be taken to ensure smooth Presidential succession in the event of a crisis during the Presidential selection process. The provision states that, prior to their political party's nominating conventions, candidates for President and Vice President should announce individuals who should be chosen by members of the Electoral College in the event that either the Presidential or Vice Presidential nominee is killed or permanently incapacitated prior to the Electoral College vote. The provision also advises the political parties to craft rules and procedures consistent with these principles.

Section 4. Presidential succession during the Presidential transition. This provision is modeled after S. Con. Res. 89 and H. Res. 775 from the last Congress. It states the sense of Congress that, in the event of the election of a new President, the outgoing Administration and incoming Administration should work together to ensure a smooth transition. Under current law, in the event of a terrorist attack on the inauguration or other crisis, a member of the prior Administration could theoretically rise to serve as Acting President, because new Cabinet officers may have not yet been nominated, confirmed, and appointed by that time. Accordingly, this provision calls for cooperation between outgoing and incoming Administrations to achieve smooth Presidential transitions. It recommends that the outgoing President nominate the individuals selected by the incoming President for offices that fall within the line of succession, it advises the Senate to act on those nominees to the extent it deems appropriate prior to the inaugural event on January 20, and finally, it recommends that the outgoing President appoint confirmed individuals to their posts on January 20 before the inaugural event.

CONGRESS OF THE UNITED STATES,
Washington, DC, April 27, 2005.

Chairman KEN MEHLMAN,
Republican National Committee,
Washington, DC.

Chairman HOWARD DEAN,
Democratic National Committee,
Washington, DC.

DEAR CHAIRMAN MEHLMAN AND CHAIRMAN DEAN: This morning, we introduce the Presidential Succession Act of 2005, to update the existing Presidential Succession Act of 1947. The bill addresses some of the most pressing problems in the current law to ensure that, should tragedy strike, the nation will have a clear and legitimate president.

One of the primary areas of concern is the period between the nominating conventions and the casting of Electoral. votes. Should a presidential or vice-presidential nominee be unable to proceed as a nominee between these two events, general election voters and electors would face great uncertainty about their votes. We are concerned about the potential mischief and instability in our government that could arise in such event.

We have attached language from the Presidential Succession act of 2005 which calls on political parties to address this issue with appropriate party rules changes and public declarations. Specifically, these changes would call upon the presidential and vice-presidential nominees to jointly name successors should tragedy occur. If only the presidential nominee is unable to continue in an election, the vice presidential nominee would become the presidential nominee.

There is no reason for the political parties to await Congressional action. The vagaries of current party rules can be solved much sooner. We call on you to take action.

Should you have questions or need additional information, please do not hesitate to contact us.

Sincerely,

JOHN CORNYN,
United States Senate.
BRAD SHERMAN,
United States House of Representatives.

By Mrs. MURRAY (for herself, Mr. DURBIN, Mr. KENNEDY, and Mrs. CLINTON):

S. 921. A bill to provide for secondary school reform, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, I am pleased today to introduce a bill with Senators DURBIN, KENNEDY, and CLINTON that will help our Nation's high school students graduate with the knowledge necessary to succeed in post-secondary education and the skills needed to succeed in the workforce.

Unfortunately too many high school students today are not completing high school at all or with the skills necessary to enter post-secondary education or the workforce. The statistics are staggering. Every day, 3,000 teenagers drop out of high school. This year over 500,000 students will drop out of high school. Overall, less than 70 percent of high school students will graduate and less than 50 percent of high school students of color will graduate.

Of 100 9th graders, less than 70 percent will graduate on time, only 38 percent will directly enter college, only 26 percent will still be enrolled in their sophomore year, and only 18 percent will graduate from college. That number is even lower for minority students. Forty percent of students entering 4-year colleges and nearly 70 percent of students entering community colleges will take remedial classes in reading, writing or math, extending their years in and the cost of college.

Only one-third of the U.S. workforce has any post-secondary education but it is estimated that 60 percent of new jobs in the 21st century will require a post-secondary education. Business will spend billions of dollars on remediation for their employees in reading, writing and math.

We can do better and we must do better for our Nation's students, their families, and American business. Currently, high school students are graduating at meager rates and even if they are graduating from high school, they are not leaving high school with the skills and knowledge to enter the workforce or be successful in college. That is why I have written and am introducing the Pathways for All Students to Succeed Act or the PASS Act.

The PASS Act targets high school reform in three key areas: core academics, improving graduation rates, and assistance to low-performing schools to improve student achievement through innovative models. The PASS Act will help improve student achievement in core academics and reduce the need for remediation in college and the workplace through grants for schools to hire literacy and math coaches. Literacy and math coaches bring professional development back into schools and classrooms. Coaches help teachers identify which students are having reading or math problems, how to respond to such problems, and how to integrate literacy and math skills across curricula.

The PASS Act also targets dropouts and low graduation rates through grants for academic counselors and a meaningful graduation rate calculation. Time after time I have talked to students in their senior year who have said, ''I didn't know I needed four years of math to graduate and get into college.'' Part of the problem is that our counselors are completely overwhelmed. The current national average ratio of students to counselors is over 450 to 1. My bill would provide grants to bring that ratio down to 150 to 1. Academic counselors will also work with students and their families to create 6 year graduation and career plans that will help students identify what classes they need to graduate and achieve their post-secondary goals, whether those goals are training or college, and identify support services such as GEAR UP and TRIO that are available to the student.

The PASS Act also provides grants to schools for data collection, and specifically on graduation rates. Currently schools do not have a way to accurately calculate graduation rates. The Department of Education only requires schools to report the graduation rate based on 12th grade data and we all know that is not when students drop out. The PASS Act provides schools with funding to collect, disaggregate, and report accurate graduation rates so that schools can correctly diagnose and address problems facing specific student populations.

And lastly the PASS Act provides additional funding for schools labeled ''in need of improvement'' to implement proven, innovative reforms leading to gains in student achievement. I often talk to principals who tell me they know what they need to do to improve their schools; they just don't have the funds to make the necessary changes. Such reforms include smaller learning communities, adolescent literacy programs, whole school reforms, personalized learning environments, and programs that target transitions between middle and secondary school.

Congress must act now and act boldly to correct the shortfalls in our nation's high schools. We can and must do better. I hope my colleagues will join me in supporting this bill and addressing the needs of our high school students.

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. 921

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 ''Pathways for All Students to Succeed Act''.

TITLE I—READING AND MATHEMATICS SKILLS FOR SUCCESS

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) While the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by the No Child Left Behind Act of 2001 (Public Law 107–110, 115 Stat. 1425), provides a strong framework for helping children in the early grades, our Nation still needs a comprehensive strategy to address the literacy problems and learning gaps of students in middle school and secondary school.

(2) Approximately 60 percent of students in the poorest communities fail to graduate from secondary school on time, in large part because of severe reading deficits that contribute to academic failure.

(3) Forty percent of students attending high minority enrollment secondary schools enroll in remedial reading coursework when entering higher education, in an effort to gain the skills their secondary education failed to provide.

(4) While 33 percent of all low-income students are enrolled in secondary schools, only 15 percent of the funding targeted to disadvantaged students goes to secondary schools.

(5) Data from the 1998 National Assessment of Educational Progress show that 32 percent of boys and 19 percent of girls in eighth grade cannot read at a basic level. These numbers do not change significantly in the secondary school years and are even more dramatic when students are identified by minority status.

(6) The 2002 National Assessment of Educational Progress writing scores indicate that while the percentage of fourth and eighth graders writing at or above a basic level increased between 1998 and 2002, the percentage of 12th graders writing at or above a basic level decreased. These numbers show that our concentrated efforts for elementary school students have improved their writing skills, but by neglecting the needs of secondary school students, we are squandering these gains.

(7) The United States cannot maintain its position as the world's strongest economy if we continue to ignore the literacy needs of adolescents in middle school and secondary school.

(8) The achievement gap between White and Asian students and Black and Hispanic students remains wide in the area of mathematics.

(9) The 2003 National Assessment of Education Progress shows that the achievement gap between the mathematics scores of eighth grade Black and Hispanic students and White students is the same in 2003 as in 1990.

(10) The 2003 National Assessment of Education Progress shows that eighth grade students eligible for a free or reduced-price school lunch did not meet the basic mathematics score, unlike non-eligible students.

(11) According to the latest results from international assessments, 15-year-olds from the United States performed below the international average in mathematics literacy and problem-solving, placing 27th out of 39 countries.

(12) Only 13 of the United States workforce has any post-secondary education, yet 60 percent of new jobs in the 21st century will require post-secondary education.

SEC. 102. PURPOSES.

The purposes of this title are—

(1) to provide assistance to State educational agencies and local educational agencies in establishing effective research-based reading, writing, and mathematics programs for students in middle schools and secondary schools, including students with disabilities and students with limited English proficiency;

(2) to provide adequate resources to schools to hire and to provide in-service training for not less than 1 literacy coach per 20 teachers who can assist middle school and secondary school teachers to incorporate research-based reading and writing instruction into the teachers' teaching of mathematics, science, history, civics, geography, literature, language arts, and other core academic subjects;

(3) to provide assistance to State educational agencies and local educational agencies—

(A) in strengthening reading and writing instruction in middle schools and secondary schools; and

(B) in procuring high-quality diagnostic reading and writing assessments and comprehensive research-based programs and instructional materials that will improve reading and writing performance among students in middle school and secondary school; and

(4) to provide adequate resources to schools to hire and to provide in-service training for not less than 1 mathematics coach per 20 teachers who can assist middle school and secondary school teachers to utilize research-based mathematics instruction to develop students' mathematical abilities and knowledge, and assist teachers in assessing student learning.

SEC. 103. DEFINITIONS.

In this title:

(1) IN GENERAL.—The terms ''local educational agency'', ''Secretary'', and ''State educational agency'' have the meaning given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency who is eligible to receive funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(3) LITERACY COACH.—The term ''literacy coach'' means a certified or licensed teacher with a demonstrated effectiveness in teaching reading and writing to students with specialized reading and writing needs, and the ability to work with classroom teachers to improve the teachers' instructional techniques to support reading and writing improvement, who works on site at a school—

(A) to train teachers from across the curriculum to incorporate the teaching of reading and writing skills into their instruction of content;

(B) to train teachers to assess students' reading and writing skills and identify students requiring remediation; and

(C) to provide or assess remedial literacy instruction, including for—

(i) students in after school and summer school programs;

(ii) students requiring additional instruction;

(iii) students with disabilities; and

(iv) students with limited English proficiency.

(4) MATHEMATICS COACH.—The term ''mathematics coach'' means a certified or licensed teacher, with a demonstrated effectiveness in teaching mathematics to students with specialized needs in mathematics, a command of mathematical content knowledge, and the ability to work with classroom teachers to improve the teachers' instructional techniques to support mathematics improvement, who works on site at a school—

(A) to train teachers to better assess student learning in mathematics;

(B) to train teachers to assess students' mathematics skills and identify students requiring remediation; and

(C) to provide or assess remedial mathematics instruction, including for—

(i) students in after school and summer school programs;

(ii) students requiring additional instruction;

(iii) students with disabilities; and

(iv) students with limited English proficiency.

(5) MIDDLE SCHOOL.—The term ''middle school'' means a school that provides middle school education, as determined under State law.

(6) SECONDARY SCHOOL.—The term ''secondary school'' means a school that provides secondary education, as determined under State law.

(7) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) LITERACY GRANTS.—For the purposes of carrying out subtitle A, there are authorized to be appropriated $1,000,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) MATHEMATICS GRANTS.—For the purposes of carrying out subtitle B, there are authorized to be appropriated $1,000,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.

Subtitle A—Literacy Skills Programs

SEC. 111. LITERACY SKILLS PROGRAMS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From funds appropriated under section 104(a) for a fiscal year, the Secretary shall establish a program, in accordance with the requirements of this subtitle, that will provide grants to State educational agencies, and grants or subgrants to eligible local educational agencies, to establish reading and writing programs to improve the overall reading and writing performance of students in middle school and secondary school.

(2) LENGTH OF GRANT.—A grant to a State educational agency under this subtitle shall be awarded for a period of 6 years.

(b) RESERVATION OF FUNDS BY THE SECRETARY.—From amounts appropriated under section 104(a) for a fiscal year, the Secretary shall reserve—

(1) 3 percent of such amounts to fund national activities in support of the programs assisted under this subtitle, such as research and dissemination of best practices, except that the Secretary may not use the reserved funds to award grants directly to local educational agencies; and

(2) 2 percent of such amounts for the Bureau of Indian Affairs to carry out the services and activities described in section 112(c) for Indian children.

(c) GRANT FORMULAS.—

(1) FORMULA GRANTS TO STATE EDUCATIONAL AGENCIES.—If the amounts appropriated under section 104(a) for a fiscal year are equal to or greater than $500,000,000, then the Secretary shall award grants, from allotments under paragraph (3), to State educational agencies to enable the State educational agencies to provide subgrants to eligible local educational agencies to establish reading and writing programs to improve

overall reading and writing performance among students in middle school and secondary school.

(2) DIRECT GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—If the amounts appropriated under section 104(a) for a fiscal year are less than $500,000,000, then the Secretary shall award grants, on a competitive basis, directly to eligible local educational agencies to establish reading and writing programs to improve overall reading and writing performance among students in middle school and secondary school.

(B) PRIORITY.—The Secretary shall give priority in awarding grants under this paragraph to eligible local educational agencies that—

(i) are among the local educational agencies in the State with the lowest graduation rates, as described in section 1111(b)(2)(C)(vi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(vi)); and

(ii) have the highest number or percentage of students who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(3) ALLOTMENTS TO STATES.—

(A) IN GENERAL.—From funds appropriated under section 104(a) and not reserved under subsection (b) for a fiscal year, the Secretary shall make an allotment to each State educational agency having an application approved under subsection (d) in an amount that bears the same relation to the funds as the amount the State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) bears to the amount received under such part by all States.

(B) MINIMUM ALLOTMENT.—Notwithstanding subparagraph (A), no State educational agency shall receive an allotment under this paragraph for a fiscal year in an amount that is less than 0.25 percent of the funds allotted to all State educational agencies under subparagraph (A) for the fiscal year.

(4) REALLOTMENT.—If a State educational agency does not apply for a grant under this subtitle, the Secretary shall reallot the State educational agency's allotment to the remaining States.

(d) APPLICATIONS.—

(1) IN GENERAL.—In order to receive a grant under this subtitle, a State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall meet the following conditions:

(A) A State educational agency shall not include the application for assistance under this subtitle in a consolidated application submitted under section 9302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7842).

(B) The State educational agency's application shall include an assurance that—

(i) the State educational agency has established a reading and writing partnership that—

(I) coordinated the development of the application for a grant under this subtitle; and

(II) will assist in designing and administering the State educational agency's program under this subtitle; and

(ii) the State educational agency will participate, if requested, in any evaluation of the State educational agency's program under this subtitle.

(C) The State educational agency's application shall include a program plan that contains a description of the following:

(i) How the State educational agency will assist eligible local educational agencies in implementing subgrants, including providing ongoing professional development for literacy coaches, teachers, paraprofessionals, and administrators.

(ii) How the State educational agency will help eligible local educational agencies identify high-quality screening, diagnostic, and classroom-based instructional reading and writing assessments.

(iii) How the State educational agency will help eligible local educational agencies identify high-quality research-based materials and programs.

(iv) How the State educational agency will help eligible local educational agencies identify appropriate and effective materials, programs, and assessments for students with disabilities and students with limited English proficiency.

(v) How the State educational agency will ensure that professional development funded under this subtitle—

(I) is based on reading and writing research;

(II) will effectively improve instructional practices for reading and writing for middle school and secondary school students; and

(III) is coordinated with professional development activities funded through other programs (including federally funded programs such as programs funded under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.)).

(vi) How funded activities will help teachers and other instructional staff to implement research-based components of reading and writing instruction.

(vii) The subgrant process the State educational agency will use to ensure that eligible local educational agencies receiving subgrants implement programs and practices based on reading and writing research.

(viii) How the State educational agency will build on and promote coordination among reading and writing programs in the State to increase overall effectiveness in improving reading and writing instruction, including for students with disabilities and students with limited English proficiency.

(ix) How the State educational agency will regularly assess and evaluate the effectiveness of the eligible local educational agency activities funded under this subtitle.

(2) REVIEW OF APPLICATIONS.—The Secretary shall review applications from State educational agencies under this subsection as the applications are received.

(e) STATE USE OF FUNDS.—Each State educational agency receiving a grant under this subtitle shall—

(1) establish a reading and writing partnership, which may be the same as the partnership established under section 1203(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6363(d)), that will provide guidance to eligible local educational agencies in selecting or developing and implementing appropriate, research-based reading and writing programs for middle school and secondary school students;

(2) use 80 percent of the grant funds received under this subtitle for a fiscal year to award subgrants to eligible local educational agencies having applications approved under section 112(a); and

(3) use 20 percent of the grant funds received under this subtitle—

(A) to carry out State-level activities described in the application submitted under subsection (d);

(B) to provide—

(i) technical assistance to eligible local educational agencies; and

(ii) high-quality professional development to teachers and literacy coaches;

(C) to oversee and evaluate subgrant services and activities undertaken by the eligible local educational agencies as described in section 112(c); and

(D) for administrative costs,

of which not more than 10 percent of the grant funds may be used for planning, administration, and reporting.

(f) NOTICE TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this subtitle shall provide notice to all eligible local educational agencies in the State about the availability of subgrants under this subtitle.

(g) SUPPLEMENT NOT SUPPLANT.—Each State educational agency receiving a grant under this subtitle shall use the grant funds to supplement not supplant State funding for activities authorized under this subtitle or for other educational activities.

(h) NEW SERVICES AND ACTIVITIES.—Grant funds provided under this subtitle may be used only to provide services and activities authorized under this subtitle that were not provided on the day before the date of enactment of this Act.

SEC. 112. SUBGRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION.—

(1) IN GENERAL.—Each eligible local educational agency desiring a subgrant under this subtitle shall submit an application to the State educational agency in the form and according to the schedule established by the State educational agency.

(2) CONTENTS.—In addition to any information required by the State educational agency, each application under paragraph (1) shall demonstrate how the eligible local educational agency will carry out the following required activities:

(A) Development or selection and implementation of research-based reading and writing assessments.

(B) Development or selection and implementation of research-based reading and writing programs, including programs for students with disabilities and students with limited English proficiency.

(C) Selection of instructional materials based on reading and writing research.

(D) High-quality professional development for literacy coaches and teachers based on reading and writing research.

(E) Evaluation strategies.

(F) Reporting.

(G) Providing access to research-based reading and writing materials.

(3) CONSORTIA.—An eligible local educational agency may apply to the State educational agency for a subgrant as a member of a consortium, if each member of the consortium is an eligible local educational agency.

(b) AWARD BASIS.—

(1) MINIMUM SUBGRANT AMOUNT.—Each eligible local educational agency receiving a subgrant under this subtitle for a fiscal year shall receive a minimum subgrant amount that bears the same relation to the amount of funds made available to the State educational agency under section 111(e)(2) as the amount the eligible local educational agency received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the preceding fiscal year bears to the amount received by all eligible local educational agencies under such part for the preceding fiscal year.

(2) SUFFICIENT SIZE AND SCOPE.—Subgrants under this section shall be of sufficient size and scope to enable eligible local educational agencies to fully implement activities assisted under this subtitle.

(c) LOCAL USE OF FUNDS.—Each eligible local educational agency receiving a subgrant under this subtitle shall use the subgrant funds to carry out, at the middle school and secondary school level, the following services and activities:

(1) Hiring literacy coaches, at a ratio of not less than 1 literacy coach for every 20 teachers, and providing professional development for literacy coaches—

(A) to work with classroom teachers to incorporate reading and writing instruction within all subject areas, during regular classroom periods, after school, and during summer school programs, for all students;

(B) to work with classroom teachers to identify students with reading and writing problems and, where appropriate, refer students to available programs for remediation and additional services;

(C) to work with classroom teachers to diagnose and remediate reading and writing difficulties of the lowest-performing students, by providing intensive, research-based instruction, including during after school and summer sessions, geared toward ensuring that the students can access and be successful in rigorous academic coursework; and

(D) to assess and organize student data on literacy and communicate that data to school administrators to inform school reform efforts.

(2) Reviewing, analyzing, developing, and, where possible, adapting curricula to make sure literacy skills are taught within the content area subjects.

(3) Providing reading and writing professional development for all teachers in middle school and secondary school that addresses both remedial and higher level literacy skills for students in the applicable curriculum.

(4) Providing professional development for teachers, administrators, and paraprofessionals serving middle schools and secondary schools to help the teachers, administrators, and paraprofessionals meet literacy needs.

(5) Procuring and implementing programs and instructional materials based on reading and writing research, including software and other education technology related to reading and writing instruction.

(6) Building on and promoting coordination among reading and writing programs in the eligible local educational agency to increase overall effectiveness in improving reading and writing instruction, including for students with disabilities and students with limited English proficiency.

(7) Evaluating the effectiveness of the instructional strategies, teacher professional development programs, and other interventions that are implemented under the subgrant.

(d) SUPPLEMENT NOT SUPPLANT.—Each eligible local educational agency receiving a subgrant under this subtitle shall use the subgrant funds to supplement not supplant the eligible local educational agency funding for activities authorized under this subtitle or for other educational activities.

(e) NEW SERVICES AND ACTIVITIES.—Subgrant funds provided under this subtitle may be used only to provide services and activities authorized under this subtitle that were not provided on the day before the date of enactment of this Act.

(f) EVALUATIONS.—Each eligible local educational agency receiving a grant under this subtitle shall participate, as requested by the State educational agency or the Secretary, in reviews and evaluations of the programs of the eligible local educational agency and the effectiveness of such programs, and shall provide such reports as are requested by the State educational agency and the Secretary.

Subtitle B—Mathematics Skills Programs

SEC. 121. MATHEMATICS SKILLS PROGRAMS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From funds appropriated under section 104(b) for a fiscal year, the Secretary shall establish a program, in accordance with the requirements of this subtitle, that will provide grants to State educational agencies, and grants and subgrants to eligible local educational agencies, to establish mathematics programs to improve the overall mathematics performance of students in middle school and secondary school.

(2) LENGTH OF GRANT.—A grant to a State educational agency under this subtitle shall be awarded for a period of 6 years.

(b) RESERVATION OF FUNDS BY THE SECRETARY.—From amounts appropriated under section 104(b) for a fiscal year, the Secretary shall reserve—

(1) 3 percent of such amounts to fund national activities in support of the programs assisted under this subtitle, such as research and dissemination of best practices, except that the Secretary may not use the reserved funds to award grants directly to local educational agencies; and

(2) 2 percent of such amounts for the Bureau of Indian Affairs to carry out the services and activities described in section 122(c) for Indian children.

(c) GRANT FORMULAS.—

(1) FORMULA GRANTS TO STATE EDUCATIONAL AGENCIES.—If the amounts appropriated under section 104(b) for a fiscal year are equal to or greater than $500,000,000, then the Secretary shall award grants, from allotments under paragraph (3), to State educational agencies to enable the State educational agencies to provide subgrants to eligible local educational agencies to establish mathematics programs to improve overall mathematics performance among students in middle school and secondary school.

(2) DIRECT GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—If the amounts appropriated under section 104(b) for a fiscal year are less than $500,000,000, then the Secretary shall award grants, on a competitive basis, directly to eligible local educational agencies to establish mathematics programs to improve overall mathematics performance among students in middle school and secondary school.

(B) PRIORITY.—The Secretary shall give priority in awarding grants under this paragraph to eligible local educational agencies that—

(i) are among the local educational agencies in the State with the lowest graduation rates, as described in section 1111(b)(2)(C)(vi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(vi)); and

(ii) have the highest number or percentage of students who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(3) ALLOTMENTS TO STATES.—

(A) IN GENERAL.—From funds appropriated under section 104(b) and not reserved under subsection (b) for a fiscal year, the Secretary shall make an allotment to each State educational agency having an application approved under subsection (d) in an amount that bears the same relation to the funds as the amount the State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) bears to the amount received under such part by all States.

(B) MINIMUM ALLOTMENT.—Notwithstanding subparagraph (A), no State educational agency shall receive an allotment under this paragraph for a fiscal year in an amount that is less than 0.25 percent of the funds allotted to all State educational agencies under subparagraph (A) for the fiscal year.

(4) REALLOTMENT.—If a State educational agency does not apply for a grant under this subtitle, the Secretary shall reallot the State educational agency's allotment to the remaining States.

(d) APPLICATIONS.—

(1) IN GENERAL.—In order to receive a grant under this subtitle, a State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall meet the following conditions:

(A) A State educational agency shall not include the application for assistance under this subtitle in a consolidated application submitted under section 9302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7842).

(B) The State educational agency's application shall include an assurance that—

(i) the State educational agency has established a mathematics partnership that—

(I) coordinated the development of the application for a grant under this subtitle; and

(II) will assist in designing and administering the State educational agency's program under this subtitle; and

(ii) the State educational agency will participate, if requested, in any evaluation of the State educational agency's program under this subtitle.

(C) The State educational agency's application shall include a program plan that contains a description of the following:

(i) How the State educational agency will assist eligible local educational agencies in implementing subgrants, including providing ongoing professional development for mathematics coaches, teachers, paraprofessionals, and administrators.

(ii) How the State educational agency will help eligible local educational agencies identify high-quality screening, diagnostic, and classroom-based instructional mathematics assessments.

(iii) How the State educational agency will help eligible local educational agencies identify high-quality research-based mathematics materials and programs.

(iv) How the State educational agency will help eligible local educational agencies identify appropriate and effective materials, programs, and assessments for students with disabilities and students with limited English proficiency.

(v) How the State educational agency will ensure that professional development funded under this subtitle—

(I) is based on mathematics research;

(II) will effectively improve instructional practices for mathematics for middle school and secondary school students; and

(III) is coordinated with professional development activities funded through other programs.

(vi) How funded activities will help teachers and other instructional staff to implement research-based components of mathematics instruction.

(vii) The subgrant process the State educational agency will use to ensure that eligible local educational agencies receiving subgrants implement programs and practices based on mathematics research.

(viii) How the State educational agency will build on and promote coordination among mathematics programs in the State to increase overall effectiveness in improving mathematics instruction, including for students with disabilities and students with limited English proficiency.

(ix) How the State educational agency will regularly assess and evaluate the effectiveness of the eligible local educational agency activities funded under this subtitle.

(2) REVIEW OF APPLICATIONS.—The Secretary shall review applications from State educational agencies under this subsection as the applications are received.

(e) STATE USE OF FUNDS.—Each State educational agency receiving a grant under this subtitle shall—

(1) establish a mathematics partnership that will provide guidance to eligible local educational agencies in selecting or developing and implementing appropriate, research-based mathematics programs for middle school and secondary school students;

(2) use 80 percent of the grant funds received under this subtitle for a fiscal year to approve high-quality applications for subgrants to eligible local educational agencies having applications approved under section 122(a); and

(3) use 20 percent of the grant funds received under this subtitle—

(A) to carry out State-level activities described in the application submitted under subsection (d);

(B) to provide—

(i) technical assistance to eligible local educational agencies; and

(ii) high-quality professional development to teachers and mathematics coaches;

(C) to oversee and evaluate subgrant services and activities undertaken by the eligible local educational agencies as described in section 122(c); and

(D) for administrative costs,

of which not more than 10 percent of the grant funds may be used for planning, administration, and reporting.

(f) NOTICE TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this subtitle shall provide notice to all eligible local educational agencies in the State about the availability of subgrants under this subtitle.

(g) SUPPLEMENT NOT SUPPLANT.—Each State educational agency receiving a grant under this subtitle shall use the grant funds to supplement not supplant State funding for activities authorized under this subtitle or for other educational activities.

(h) NEW SERVICES AND ACTIVITIES.—Grant funds provided under this subtitle may be used only to provide services and activities authorized under this subtitle that were not provided on the day before the date of enactment of this Act.

SEC. 122. SUBGRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION.—

(1) IN GENERAL.—Each eligible local educational agency desiring a subgrant under this subtitle shall submit an application to the State educational agency in the form and according to the schedule established by the State educational agency.

(2) CONTENTS.—In addition to any information required by the State educational agency, each application under paragraph (1) shall demonstrate how the eligible local educational agency will carry out the following required activities:

(A) Development or selection and implementation of research-based mathematics assessments.

(B) Development or selection and implementation of research-based mathematics programs, including programs for students with disabilities and students with limited English proficiency.

(C) Selection of instructional materials based on mathematics research.

(D) High-quality professional development for mathematics coaches and teachers based on mathematics research.

(E) Evaluation strategies.

(F) Reporting.

(G) Providing access to research-based mathematics materials.

(3) CONSORTIA.—An eligible local educational agency may apply to the State educational agency for a subgrant as a member of a consortium if each member of the consortium is an eligible local educational agency.

(b) AWARD BASIS.—

(1) MINIMUM SUBGRANT AMOUNT.—Each eligible local educational agency receiving a subgrant under this subtitle for a fiscal year shall receive a minimum subgrant amount that bears the same relation to the amount of funds made available to the State educational agency under section 121(e)(2) as the amount the eligible local educational agency received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the preceding fiscal year bears to the amount received by all eligible local educational agencies under such part for the preceding fiscal year.

(2) SUFFICIENT SIZE AND SCOPE.—Subgrants under this section shall be of sufficient size and scope to enable eligible local educational agencies to fully implement activities assisted under this subtitle.

(c) LOCAL USE OF FUNDS.—Each eligible local educational agency receiving a subgrant under this subtitle shall use the subgrant funds to carry out, at the middle school and secondary school level, the following services and activities:

(1) Hiring mathematics coaches, at a ratio of not less than 1 mathematics coach for every 20 teachers, and providing professional development for mathematics coaches—

(A) to work with classroom teachers to better assess student learning in mathematics;

(B) to work with classroom teachers to identify students with mathematics problems and, where appropriate, refer students to available programs for remediation and additional services;

(C) to work with classroom teachers to diagnose and remediate mathematics difficulties of the lowest-performing students, by providing intensive, research-based instruction, including during after school and summer sessions, geared toward ensuring that those students can access and be successful in rigorous academic coursework; and

(D) to assess and organize student data on mathematics and communicate that data to school administrators to inform school reform efforts.

(2) Reviewing, analyzing, developing, and, where possible, adapting curricula to make sure mathematics skills are taught within the content area subjects.

(3) Providing mathematics professional development for all teachers in middle school and secondary school that addresses both remedial and higher level mathematics skills for students in the applicable curriculum.

(4) Providing professional development for teachers, administrators, and paraprofessionals serving middle schools and secondary schools to help the teachers, administrators, and paraprofessionals meet mathematics needs.

(5) Procuring and implementing programs and instructional materials based on mathematics research, including software and other education technology related to mathematics instruction.

(6) Building on and promoting coordination among mathematics programs in the eligible local educational agency to increase overall effectiveness in improving mathematics instruction, including for students with disabilities and students with limited English proficiency.

(7) Evaluating the effectiveness of the instructional strategies, teacher professional development programs, and other interventions that are implemented under the subgrant.

(d) SUPPLEMENT NOT SUPPLANT.—Each eligible local educational agency receiving a subgrant under this subtitle shall use the subgrant funds to supplement not supplant the eligible local educational agency funding for activities authorized under this subtitle or for other educational activities.

(e) NEW SERVICES AND ACTIVITIES.—Subgrant funds provided under this subtitle may be used only to provide services and activities authorized under this subtitle that were not provided on the day before the date of enactment of this Act.

(f) EVALUATIONS.—Each eligible local educational agency receiving a grant under this subtitle shall participate, as requested by the State educational agency or the Secretary, in reviews and evaluations of the programs of the eligible local educational agency and the effectiveness of such programs, and shall provide such reports as are requested by the State educational agency and the Secretary.

TITLE II—PATHWAYS TO SUCCESS

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) In 2003, approximately 60 percent of students in the poorest communities failed to graduate from secondary school on time.

(2) All ninth grade students should have a plan that assesses the student's instructional needs and outlines the coursework the student must complete to graduate on time, properly prepared for college and career.

(3) Research shows that 1 of the most important factors behind student success in secondary school is a close connection with at least 1 adult who demonstrates concern for the student's advancement.

(4) Secondary school counselors can help students receive the instructional, tutorial, and social supports that contribute to academic success.

(5) Model programs around the Nation have demonstrated that effective academic and support plans for students, developed by counselors serving as academic coaches, in cooperation with students and parents, result in a higher percentage of students graduating from secondary school well prepared for college study.

SEC. 202. DEFINITIONS.

In this title:

(1) IN GENERAL.—The terms ''local educational agency'', ''poverty line'', ''secondary school'', ''Secretary'', and ''State educational agency'' have the meaning given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ACADEMIC COUNSELOR.—The term ''academic counselor'' means a highly qualified professional who has received professional development appropriate to perform the services described in section 205(c).

(3) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency who has jurisdiction over not less than 1 secondary school receiving assistance under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(4) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 203. PROGRAM AUTHORIZED.

The Secretary is authorized to establish a program, in accordance with the requirements of this title, that—

(1) enables a secondary school that receives assistance under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), to hire a sufficient number of academic counselors, in a ratio of not less than 1 counselor to 150 students, to develop personal plans for each student at the school, including students with limited English proficiency;

(2) involves parents in the development and implementation of the personal plans; and

(3) provides academic counselors and staff at the schools receiving grants under this

title the opportunity to coordinate with other programs and services, including those supported by Federal funds, to ensure that students have access to the resources and services necessary to fulfill the students' personal plans.

SEC. 204. GRANTS TO STATES.

(a) GRANTS AUTHORIZED.—From amounts made available under section 206 and not reserved under subsection (i), the Secretary shall award grants, from allotments under subsection (b), to State educational agencies to enable the State educational agencies to provide subgrants to eligible local educational agencies to implement programs in secondary schools in accordance with this title.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—From funds appropriated under section 206 and not reserved under subsection (i) for a fiscal year, the Secretary shall make an allotment to each State educational agency having an application approved under subsection (d) in an amount that bears the same relation to the funds as the amount the State received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) bears to the amount received under such part by all States.

(2) MINIMUM ALLOTMENT.—Notwithstanding paragraph (1), no State educational agency shall receive an allotment under this subsection for a fiscal year in an amount that is less than 0.25 percent of the amount allotted to the State educational agencies under subsection (e)(1) for the fiscal year.

(3) RATABLE REDUCTIONS.—If the amount appropriated to carry out this title for any fiscal year is less than $2,000,000,000, then the Secretary shall ratably reduce the allotment made to each State educational agency under this subsection in proportion to the relative number of children who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)), in the State compared to such number for all States.

(c) LENGTH OF GRANTS.—A grant to a State educational agency under this title shall be awarded for a period of 6 years.

(d) APPLICATIONS.—In order to receive a grant under this title, a State educational agency shall submit an application to the Secretary in the form and according to the schedule established by the Secretary by regulation.

(e) STATE USE OF FUNDS.—Each State educational agency receiving a grant under this title shall use—

(1) 80 percent of the grant funds to award subgrants to eligible local educational agencies under section 205; and

(2) 20 percent of the grant funds to provide professional development to academic counselors and technical assistance to local educational agencies, and to pay for administrative costs, of which not more than 10 percent of such 20 percent may be used for planning, administration, and reporting.

(f) SUPPLEMENT NOT SUPPLANT.—Grant funds provided to State educational agencies under this title shall be used to supplement not supplant funding provided by the State for activities authorized under this title or for other educational activities.

(g) NEW SERVICES AND ACTIVITIES.—Grant funds provided under this title may be used only to provide services and activities authorized under this title that were not provided on the day before the date of enactment of this Act.

(h) REALLOTMENT.—If a State educational agency does not apply for funding under this title, the Secretary shall reallot the State educational agency's allotment to the remaining eligible State educational agencies.

(i) RESERVATIONS.—Of the funds appropriated under section 206 for each fiscal year, the Secretary shall reserve—

(1) 2 percent for the Bureau of Indian Affairs to carry out the authorized activities described in section 205(c); and

(2) 3 percent for national activities that support the programs assisted under this title, except that the Secretary shall not use such reserved funds to award grants directly to local educational agencies.

SEC. 205. SUBGRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.

(a) SUBGRANTS AUTHORIZED.—From amounts made available under section 204(e)(1), a State educational agency shall award subgrants to eligible local educational agencies having applications approved under subsection (b) to enable the eligible local educational agencies to carry out the authorized activities described in subsection (c).

(b) APPLICATIONS.—

(1) IN GENERAL.—Each eligible local educational agency desiring a subgrant under this title shall submit an application to the State educational agency in the form and according to the schedule established by the State educational agency. Each such application shall describe how the eligible local educational agency will—

(A) hire a sufficient number of highly qualified academic counselors to develop personal plans for all students in such students' first year of secondary school, with a ratio of 1 academic counselor to not more than 150 students in each secondary school served under the subgrant;

(B) provide adequate resources to each such school to offer the supplemental and other support services that the implementation of students' personal plans require, and provide such supplemental services, where possible, through coordination with Federal TRIO programs under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.), Gear Up programs under chapter 2 of such subpart (20 U.S.C. 1070a–21 et seq.), programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), 21st Century Community Learning Centers under part B of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7171 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (in accordance with students' individualized education programs), and programs under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.);

(C) include parents in the development and implementation of students' personal plans; and

(D) provide staff at each such school with opportunities for appropriate professional development and coordination to help the staff support students in implementing the students' personal plans.

(2) CONSORTIA.—An eligible local educational agency may apply to the State educational agency for a subgrant as a consortium, if each member of the consortium is an eligible local educational agency.

(c) AUTHORIZED ACTIVITIES.—Each eligible local educational agency receiving a subgrant under this title shall use the subgrant funds to provide the following services:

(1) Hiring academic counselors (at a ratio of not less than 1 counselor per 150 students) to develop the 6-year personal plans for all students in such students' first year of secondary school and coordinate the services required to implement such personal plans. Such academic counselors shall—

(A) work with students and their families to develop an individual plan that will define such students' career and education goals, assure enrollment in the coursework necessary for on-time graduation and preparation for career development or postsecondary education, and identify the courses and supplemental services necessary to meet those goals;

(B) advocate for students, helping the students to access the services and supports necessary to achieve the goals laid out in the personal plan for the student;

(C) assure student access to services, both academic and nonacademic, needed to lower barriers to succeed as needed;

(D) assess student progress on a regular basis;

(E) work with school and eligible local educational agency administrators to promote reforms based on student needs and performance data;

(F) involve parents or caregivers, including those parents or caregivers who are limited English proficient, and teachers, in the development of students' personal plans to ensure the support and assistance of the parents, caregivers, and teachers in meeting the goals outlined in such personal plans; and

(G) communicate to students and their families the importance of implementing the 2 years of the personal plan following secondary school graduation, and work with institutions of higher education to help students transition successfully and fully implement the students' personal plans.

(2) Determining the academic needs of all students entering grade 9 and identifying barriers to success.

(3) Ensuring availability of the services necessary for the implementation of students' personal plans, including access to a college preparatory curriculum and advanced placement or international baccalaureate courses.

(4) Where appropriate, modifying the curriculum at a secondary school receiving subgrant funds under this title to address the instructional requirements of students' personal plans.

(5) Providing for the ongoing assessment of students for whom personal plans have been developed and modifying such personal plans as necessary.

(6) Coordinating the services offered with subgrant funds received under this title with other Federal, State, and local funds, including programs authorized under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), sections 402A and 404A of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 and 1070a–21), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (in accordance with students' individualized education programs), and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

(d) ELIGIBLE LOCAL EDUCATIONAL AGENCY PRIORITY.—In awarding subgrants to eligible local educational agencies, a State educational agency shall give priority to eligible local educational agencies with—

(1) the largest number or percentage of students in grades 6 through 12 reading below grade level; or

(2) the lowest graduation rates as described in section 1111(b)(2)(C)(vi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(vi)).

(e) SCHOOL PRIORITY.—In awarding subgrant funds to secondary schools, an eligible local educational agency shall give priority to secondary schools that—

(1) have the highest percentages or numbers of students in grades 6 through 12 reading below grade level;

(2) have the highest percentages or numbers of children living below the poverty line according to census figures; or

(3) have the lowest graduation rates as described in section 1111(b)(2)(C)(vi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(vi)).

(f) MINIMUM SUBGRANT AMOUNT.—Each eligible local educational agency receiving a subgrant under this title for a fiscal year shall receive a minimum subgrant amount that bears the same relation to the amount of funds made available to the State educational agency under section 204(e)(1) as the amount the eligible local educational agency received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the preceding fiscal year bears to the amount received by all eligible local educational agencies in the State under such part for the preceding fiscal year.

(g) SUFFICIENT SIZE AND SCOPE.—Subgrants under this section shall be of sufficient size and scope to enable eligible local educational agencies to fully implement activities assisted under this title.

(h) SUPPLEMENT NOT SUPPLANT.—Each eligible local educational agency receiving a subgrant under this section shall use the subgrant funds to supplement not supplant funding for activities authorized under this title or for other educational activities.

(i) NEW SERVICES AND ACTIVITIES.—Subgrant funds provided under this section may be used only to provide services and activities authorized under this section that were not provided on the day before the date of enactment of this Act.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of carrying out this title, there are authorized to be appropriated $2,000,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.

TITLE III—FOSTERING SUCCESSFUL SECONDARY SCHOOLS

SEC. 301. FINDINGS.

Congress makes the following findings:

(1) Personalization of the school environment has been proven to be an essential factor in helping low-performing secondary school students succeed.

(2) Effective schools provide ongoing, high-quality professional development for teachers and administrators to improve instruction.

(3) Student success is dependent upon alignment of curriculum, instruction, and assessment.

(4) Successful schools adapt instruction to the unique interests and talents of each student.

(5) Successful schools have high expectations for all students and offer a rigorous curriculum for the entire student body.

(6) Ongoing assessment is the best way to measure how each student is learning and responding to the teacher's instructional methods.

(7) Effective secondary schools have access to, and utilize, data related to student performance prior to, and following, secondary school enrollment.

(8) Despite significant increases to the program, only about 7 percent of funding for title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) goes to secondary schools.

(9) Every year, 1,300,000 students do not graduate with their peers, which means every school day, our Nation loses 7,000 students.

(10) Nationally, of 100 ninth-graders, only 68 will graduate from high school on time, only 38 will directly enter college, only 26 will still be enrolled for the sophomore year, and only 18 will end up graduating from college. The numbers for minority students are even lower.

(11) Even secondary school graduates going on to college are struggling with basic literacy skills, with 40 percent of all 4-year college students taking a remedial course and 63 percent of all community college students assigned to at least 1 remedial course.

SEC. 302. PURPOSES.

It is the purpose of this title to implement research-based programs, practices, and models that will improve student achievement in low performing secondary schools.

SEC. 303. DEFINITIONS.

In this title:

(1) IN GENERAL.—The terms ''institution of higher education'', ''local educational agency'', ''secondary school'', ''Secretary'', and ''State educational agency'' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency that has jurisdiction over not less than 1 eligible secondary school.

(3) ELIGIBLE PARTNERSHIP.—The term ''eligible partnership'' means—

(A) an eligible local educational agency in partnership with a regional educational laboratory, an institution of higher education, or another nonprofit institution with significant experience in implementing and evaluating education reforms; or

(B) a consortium of eligible secondary schools or eligible local educational agencies, each of which is an eligible entity described in subparagraph (A).

(4) ELIGIBLE SECONDARY SCHOOL.—The term ''eligible secondary school'' means a secondary school identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)), as of the day preceding the date of enactment of the Pathways for All Students to Succeed Act.

(5) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 304. PROGRAM AUTHORIZED; AUTHORIZATION OF APPROPRIATIONS.

(a) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to State educational agencies, from allotments under section 305(b), to enable the State educational agencies to award subgrants to eligible local educational agencies, from allocations under section 305(c)(2), to promote secondary school improvement and student achievement.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $500,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.

SEC. 305. RESERVATIONS, STATE ALLOTMENTS, AND LOCAL ALLOCATIONS.

(a) RESERVATIONS.—From funds appropriated under section 304(b) for a fiscal year the Secretary shall reserve—

(1) 2 percent for schools funded or supported by the Bureau of Indian Affairs to carry out the purposes of this title for Indian children;

(2) 3 percent to carry out national activities in support of the purposes of this title; and

(3) 95 percent for allotment to the States in accordance with subsection (b).

(b) ALLOTMENT TO STATES.—

(1) IN GENERAL.—From funds reserved under subsection (a)(3) for a fiscal year, the Secretary shall make an allotment to each State educational agency in an amount that bears the same relationship to the funds as the number of schools in that State that have been identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)), bears to the number of schools in all States that have been identified for school improvement under such section 1116(b).

(2) REALLOTMENT.—The portion of any State educational agency's allotment that is not used by the State educational agency shall be reallotted among the remaining State educational agencies on the same basis as the original allotments were made under paragraph (1).

(c) ALLOCATIONS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

(1) RESERVATIONS.—Each State educational agency receiving a grant under this title shall reserve—

(A) not more than 10 percent of the grant funds—

(i) for State-level activities to provide high-quality professional development and technical assistance to local educational agencies receiving funds under this title and to other local educational agencies as appropriate, including the dissemination and implementation of research-based programs, practices, and models for secondary school improvement; and

(ii) to contract for the evaluation of all programs and activities in the State that are assisted under this title; and

(B) not less than 90 percent of the grant funds to award subgrants to eligible local educational agencies to enable the eligible local educational agencies to carry out the activities described in section 306.

(2) LOCAL ALLOCATION.—From funds reserved under paragraph (1)(B), the State educational agency shall allocate to each eligible local educational agency in the State an amount that bears the same relation to such funds as the number of secondary schools that have been identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)), that are served by the eligible local educational agency, bears to the number of such schools served by all eligible local educational agencies in the State.

SEC. 306. LOCAL USES OF FUNDS.

Each eligible local educational agency receiving a subgrant under this title shall use the subgrant funds for activities to improve secondary schools that have been identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)), such as—

(1) developing and implementing research-based programs or models that have been shown to raise achievement among secondary school students, including smaller learning communities, adolescent literacy programs, block scheduling, whole school reforms, individualized learning plans, personalized learning environments, and strategies to target students making the transition from middle school to secondary school;

(2) promoting community investment in school quality by engaging parents, businesses, and community-based organizations in the development of reform plans for eligible secondary schools;

(3) researching, developing, and implementing a school district strategy to create smaller learning communities for secondary school students, both by creating smaller learning communities within existing secondary schools, and by developing new, smaller, and more personalized secondary schools;

(4) providing professional development for school staff in research-based practices, such as interactive instructional strategies and opportunities to connect learning with experience; and

(5) providing professional development and leadership training for principals and other school leaders in the best practices of instructional leadership and implementing school reforms to raise student achievement.

SEC. 307. APPLICATIONS.

(a) STATES.—Each State educational agency desiring a grant under this title shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require to ensure compliance with the requirements of this title.

(b) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—Each eligible local educational agency desiring a subgrant under this title shall submit to the State educational agency an application at such time, in such manner, and containing such information as the State educational agency may require to ensure compliance with the requirements of this title. Each such application shall describe how the eligible local educational agency will form an eligible partnership to carry out the activities assisted under this title.

SEC. 308. EVALUATIONS.

In cooperation with the State educational agencies receiving funds under this title, the Secretary shall undertake or contract for a rigorous evaluation of the effectiveness and success of activities conducted under this title.

TITLE IV—DATA CAPACITY

SEC. 401. GRANTS FOR INCREASING DATA CAPACITY FOR PURPOSES OF ASSESSMENT AND ACCOUNTABILITY.

(a) PROGRAM AUTHORIZED.—From funds appropriated under subsection (e) for a fiscal year, the Secretary may award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to develop or increase the capacity of data systems for assessment and accountability purposes, including the collection of graduation rates.

(b) APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Each State educational agency that receives a grant under this section shall use the grant funds for the purpose of—

(1) increasing the capacity of, or creating, State databases to collect, disaggregate, and report information related to student achievement, enrollment, and graduation rates for assessment and accountability purposes; and

(2) reporting, on an annual basis, for the elementary schools and secondary schools within the State, on—

(A) the enrollment data from the beginning of the academic year;

(B) the enrollment data from the end of the academic year; and

(C) the twelfth grade graduation rates.

(d) DEFINITIONS.—In this section:

(1) GRADUATION RATE.—The term ''graduation rate'' means the percentage that—

(A) the total number of students who—

(i) graduate from a secondary school with a regular diploma (which shall not include the recognized equivalent of a secondary school diploma or an alternative degree) in an academic year; and

(ii) graduated on time by progressing 1 grade per academic year; represents of

(B) the total number of students who entered the secondary school in the entry level academic year applicable to the graduating students.

(2) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

Mr. DURBIN. Mr. President, I am pleased to support the introduction today, along with my colleagues Senators CLINTON and KENNEDY, of Senator MURRAY's bill to improve America's high schools.

We have all heard a lot of talk these days about the need to improve America's high schools. Bill Gates makes the point that the academic caliber of our high school graduates is one of the greatest factors in our country's ability to innovate and to compete internationally in technological advancements. The CEO of Intel, Craig Barrett, tells the story of the how U.S. students are eclipsed in the international science competition his firm sponsors. University presidents I meet with talk about the strain that remedial education for incoming freshmen places on the school's faculty and budgets.

The President's budget this year includes his high school initiative, which proposes to redirect money to high schools. There's a big catch, though. The President says that to fund his high school initiative we need to eliminate one of our most effective education programs for high schools, technical schools and colleges—Perkins Vocational and Technical Education grants.

There is a better way. The Pathways for All Students to Success (PASS) Act provides the resources schools need to sharpen the focus on literacy and math—skills critical to success in the workforce or in post-secondary studies. High schools can employ literacy and math coaches to help support and supplement the teachers in traditional classrooms. The legislation also allows for additional academic counseling, to provide that targeted, individualized assistance that many students need to achieve proficiency in key academic areas.

The PASS Act also provides funding that allows schools not meeting national standards to implement proven, comprehensive school reform to help students learn. Finally, current data on high school graduation rates is incomplete, inconsistent and often inaccurate. That makes it harder for schools to know which populations of students are most in need of additional attention. This legislation provides funding for school systems to collect, disaggregate and report accurate graduation rates.

Now is the time to strengthen our high schools. Expectations in the workplace and on post-secondary campuses are higher than ever for high school graduates. The PASS Act supports students working toward high school graduation, enhancing their pathway to success.

By Mr. SANTORUM (for himself and Mr. LIEBERMAN):

S. 922. A bill to establish and provide for the treatment of Individual Development Accounts, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I along with Senator LIEBERMAN am introducing the Savings and Working Families Act of 2005.

The need for this legislation comes at a time when Americans face an ongoing savings and assets crisis. One third of all Americans have no assets available for investment, and another fifth have only negligible assets. The United States household savings rate lags far behind that of other industrial nations, constraining national economic growth and keeping many Americans from entering the economic mainstream by buying a house, obtaining an adequate education, or starting a business.

Low-income Americans face a huge hurdle when trying to save. Individual Development Accounts, IDAs, provide them with a way to work toward building assets while instilling the practice of savings into their everyday lives. IDAs are one of the most promising tools that enable low-income and low-wealth American families to save, build assets, and enter the financial mainstream. Based on the idea that all Americans should have access, through the tax code or through direct expenditures, to the structures that subsidize homeownership and retirement savings of wealthier families, IDAs encourage savings efforts among the poor by offering them a one-to-one match for their own deposits. IDAs reward the monthly savings of working-poor families who are trying to buy their first home, pay for post-secondary education, or start a small business. These matched savings accounts are similar to 401(k) plans and other matched savings accounts, but can serve a broad range of purposes.

The Savings and Working Families Act of 2005 builds on existing IDA programs by creating tax credit incentives for an additional 900,000 accounts. Individuals between 18 and 60 who are not dependents or students and meet the income requirements would be eligible to establish and contribute to an IDA. For single filers, the income limit would be $20,000 in modified aggregate gross income, AGI. The corresponding thresholds for head-of-household and joint filers would be $30,000 and $40,000, respectively.

Participants could generally withdraw their contributions and matching funds for qualified purposes, which include certain higher education expenses, first-time home purchase expenditures, and small business capitalization.

Additionally, this bill would create a tax credit to defray the cost of establishing and running IDA programs, contributing matching funds to the appropriate accounts, and providing financial education to account holders. Program sponsors could be qualified institutions, qualified nonprofits, or

qualified Indian tribes, and would have to be an institution eligible under current law to serve as the custodian of IRAs. Sponsors could claim a tax credit that would have two components. The first would be a $50 credit per account to offset the ongoing costs of maintaining and administering each account and providing financial education to participants. Except for the first year that an account is open, the credit would be available only for accounts with a balance, at year's end, of more than $100. In addition, there would be a credit for the dollar-to-dollar matching amounts.

IDAs work to spur savings by low-income individuals. The American Dream Demonstration, ADD, a 14-site IDA program, has proven that low-income families, with proper incentives and support, can and do save for longer-term goals. In ADD, average monthly net deposits per participant were $19.07, with the average participant saving 50 percent of the monthly savings target and making deposits in 6 of 12 months. Participants accumulated an average of $700 per year including matching contributions. Importantly, deposits increased as the monthly target increased, indicating that low-income families' saving behavior, like that of wealthier individuals; is influenced by the incentives they receive.

Additionally, key to the success of IDAs is the economic education that participants receive. Information about repairing credit, reducing expenditures, applying for the Earned Income Tax Credit, avoiding predatory lenders, and accessing financial services helps IDA participants to reach savings goals and to integrate themselves into the mainstream economic system. The encouragement and connection to supportive services helps low-income individuals to keep early withdrawals to a minimum and overcome obstacles to saving. Banks and credit unions benefit from these new customer relations, and States benefit from decreased presence of check-cashing, pawnshop, and other predatory outlets.

But more than income enhancement, asset accumulation affects individuals' confidence about the future, willingness to defer gratification, avoidance of risky behavior, and investment in community. In families where assets are owned, children do better in school, voting participation increases, and family stability improves. Reliance on public assistance decreases as families use their assets to access higher education and better jobs, reduce their housing costs through ownership, and create their own job opportunities through entrepreneurship.

We must re-instill the value that Americans once put into saving and promote an ownership society. Saving must once again become a national virtue. At stake are not just the financial security and prosperity of Americans as individuals but America as a nation. This bill takes a step in reaching out to low-income Americans to meet this goal.

I urge my colleagues to support the Savings and Working Families Act of 2005.

By Mr. CORZINE (for himself, Mr. AKAKA, Ms. STABENOW, Mr. LAUTENBERG, and Mr. OBAMA):

S. 923. A bill to amend part A of title IV of the Social Security Act to require a State to promote financial education under the Temporary Assistance for Needy Families (TANF) Program and to allow financial education to count as a work activity under that program; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce the TANF Financial Education Promotion Act of 2005 in order to call attention to an important issue for low-income families financial literacy. I am proud to be reintroducing this bill during the month of April, which is Financial Literacy Month.

One of the goals of the Temporary Assistance for Needy Families (TANF) Program is to help low-income families transition from welfare to work. However, there is more to leaving poverty than just finding a job. Welfare recipients must learn the skills that will help them build savings and establish good credit so that they can stay off welfare. Currently, TANF does not offer financial education to low-income individuals, leaving welfare recipients at risk of dependence upon public assistance.

Furthermore, millions of low-income families, including families receiving TANF, are unbanked. These households tend to do their banking at check-cashing outlets that charge exorbitant fees for such services. A lack of basic consumer finance education, including lack of familiarity with how a checking or savings account works, has been cited as a major reason why millions of Americans do not set up such accounts.

Not only are low-income people more likely to be unbanked than other individuals, but they are also the most vulnerable to abusive lending practices and hostile credit arrangements. Those with the fewest financial resources end up paying the most to obtain financing. Financial education that addresses predatory lending will help prevent low-income families from becoming victims of unaffordable loan payments, equity stripping, and foreclosure.

Burdened by significant financial needs, welfare recipients need practical information on the fundamentals of saving, household budgeting, taxes, and credit. With this knowledge, individuals will be better equipped to move toward self-sufficiency and maintain financial independence.

The TANF Financial Education Promotion Act makes strides in financial literacy for welfare recipients by requiring states to use TANF funds to collaborate with community-based organizations, banks, and community colleges to create financial education programs for low-income families receiving welfare and for those transitioning from welfare to work.

I am not alone in advocating financial literacy for TANF recipients. Federal Reserve Chairman Alan Greenspan has said, ''Educational and training programs may be the most critical service offered by community-based organizations to enhance the ability of lower-income households to accumulate assets.''

I urge my colleagues to join me in helping the most vulnerable families in the United States get access to the tools they will need to successfully make the transition from welfare to work.

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. 923

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 ''TANF Financial Education Promotion Act of 2005''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Most recipients of assistance under the Temporary Assistance for Needy Families (TANF) Program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and individuals moving toward self-sufficiency operate outside the financial mainstream, paying high costs to handle their finances and saving little for emergencies or the future.

(2) Currently, personal debt levels and bankruptcy filing rates are high and savings rates are at their lowest levels in 70 years. The inability of many households to budget, save, and invest prevents them from laying the foundation for a secure financial future.

(3) Financial planning can help families meet near-term obligations and maximize their longer-term well being, especially valuable for populations that have traditionally been underserved by our financial system.

(4) Financial education can give individuals the necessary financial tools to create household budgets, initiate savings plans, and acquire assets.

(5) Financial education can prevent vulnerable customers from becoming entangled in financially devastating credit arrangements.

(6) Financial education that addresses abusive lending practices targeted at specific neighborhoods or vulnerable segments of the population can prevent unaffordable payments, equity stripping, and foreclosure.

(7) Financial education speaks to the broader purpose of the TANF Program to equip individuals with the tools to succeed and support themselves and their families in self-sufficiency.

SEC. 3. REQUIREMENT TO PROMOTE FINANCIAL EDUCATION UNDER TANF.

(a) STATE PLAN.—Section 402(a)(1)(A) of the Social Security Act (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

''(vii) Establish goals and take action to promote financial education, as defined in section 407(j), among parents and caretakers receiving assistance under the program through collaboration with community-based organizations, financial institutions, and the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.''.

(b) INCLUSION OF FINANCIAL EDUCATION AS A WORK ACTIVITY.—Section 407 of the Social Security Act (42 U.S.C 607) is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''or (12)'' and inserting ''(12), or (13)''; and

(B) in subparagraph (B), by striking ''or (12)'' each place it appears and inserting ''(12), or (13)'';

(2) in subsection (d)—

(A) in paragraph (11), by striking ''and'' at the end;

(B) in paragraph (12), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(13) financial education, as defined in subsection (j).''; and

(3) by adding at the end the following:

''(j) DEFINITION OF FINANCIAL EDUCATION.—In this part, the term 'financial education' means education that promotes an understanding of consumer, economic, and personal finance concepts, including the basic principles involved with earning, budgeting, spending, saving, investing, and taxation.''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2005.

By Mr. CORZINE (for himself, Mr. AKAKA, Ms. STABENOW, Mr. LAUTENBERG, Mr. SARBANES, and Mr. BAUCUS):

S. 924. A bill to establish a grant program to enhance the financial and retirement literacy of mid-life and older Americans to reduce financial abuse and fraud among such Americans, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I would like to speak today about an issue that I believe should be a lifelong goal for all Americans—financial literacy.

More specifically, I want to highlight the necessity of financial literacy for men and women who are close to retirement. Senior citizens are too often the victims of predatory mortgage and lending abuses and other financial scams. AARP surveys show that over half of telemarketing fraud victims are age 50 or older. In fact, financial exploitation is the largest single category of abuse against older persons. It is clear that the vulnerability of this population stems from a lack of financial knowledge, so it is more important than ever that this Congress take steps to increase the availability of financial education for midlife and senior citizens.

Not only does poor financial literacy leave older Americans vulnerable to financial fraud, but it also leads to poor retirement planning. In the next thirty years, the number of Americans over the age of 65 will double. For many of these Americans, Social Security alone will be insufficient to cover all their expenses, particularly as health care costs rise. Only about half of American workers are currently participating in any pension plan, leaving more than 75 million Americans without an employer-sponsored pension. Even worse is the fact that fifty million Americans have no retirement savings whatsoever. These statistics are frightening. As our population lives longer, we must focus on retirement education for mid-life and aging Americans as well as consumer education for seniors.

My legislation, the Education for Retirement Security Act will address the need for financial literacy among seniors by creating a $100 million competitive grant program that would provide resources to State and area agencies on aging, and nonprofit community based organizations, to provide financial education to mid-life and older Americans. The goal of this education is to enhance these individuals' financial and retirement knowledge and reduce their vulnerability to financial abuse and fraud, including telemarketing, mortgage, and pension fraud. The bill also creates a national technical assistance program that will designate at least one national grantee to provide financial education materials and training to local grantees.

I am proud to be reintroducing this legislation during the month of April, which is Financial Literacy Month.

We must offer those individuals who are close to or in retirement the tools they will need to make sound financial decisions and prepare appropriately for their retirement. The Education for Retirement Security Act will help older Americans learn how to avoid scams and invest well. With savvy financial planning and smart consumer skills, senior citizens will be more empowered to protect themselves and ultimately be better able to enjoy a more secure 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. 924

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Education for Retirement Security Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Improving financial literacy is a critical and complex task for Americans of all ages.

(2) Low levels of savings and high levels of personal and real estate debt are serious problems for many households nearing retirement.

(3) Only 53 percent of working Americans have any form of pension coverage. Three out of four women aged 65 or over receive no income from employer-provided pensions.

(4) The more limited timeframe that mid-life and older individuals and families have to assess the realities of their individual circumstances, to recover from counter-productive choices and decisionmaking processes, and to benefit from more informed financial practices, has immediate impact and near term consequences for Americans nearing or of retirement age.

(5) Research indicates that there are now 4 basic sources of retirement income security. Those sources are social security benefits, pensions and savings, healthcare insurance coverage, and, for an increasing number of older individuals, necessary earnings from working during one's ''retirement'' years.

(6) Over the next 30 years, the number of older individuals in the United States is expected to double, from 35,000,000 to nearly 75,000,000, and long-term care costs are expected to skyrocket.

(7) Financial exploitation is the largest single category of abuse against older individuals and this population comprises more than ½ of all telemarketing victims in the United States.

(8) The Federal Trade Commission (FTC) Identity Theft Data Clearinghouse has reported that incidents of identity theft targeting individuals over the age of 60 increased from 1,821 victims in 2000 to 21,084 victims in 2004, an increase of more than 11 times in number.

SEC. 3. GRANT PROGRAM TO ENHANCE FINANCIAL AND RETIREMENT LITERACY AND REDUCE FINANCIAL ABUSE AND FRAUD AMONG MID-LIFE AND OLDER AMERICANS.

(a) AUTHORITY.—The Secretary is authorized to award grants to eligible entities to provide financial education programs to mid-life and older individuals who reside in local communities in order to—

(1) enhance financial and retirement knowledge among such individuals; and

(2) reduce financial abuse and fraud, including telemarketing, mortgage, and pension fraud, among such individuals.

(b) ELIGIBLE ENTITIES.—An entity is eligible to receive a grant under this section if such entity is—

(1) a State agency or area agency on aging; or

(2) a nonprofit organization with a proven record of providing—

(A) services to mid-life and older individuals;

(B) consumer awareness programs; or

(C) supportive services to low-income families.

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require, including a plan for continuing the programs provided with grant funds under this section after the grant expires.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A recipient of a grant under this section may not use more than 4 percent of the total amount of the grant in each fiscal year for the administrative costs of carrying out the programs provided with grant funds under this section.

(e) EVALUATION AND REPORT.—

(1) ESTABLISHMENT OF PERFORMANCE MEASURES.—The Secretary shall develop measures to evaluate the programs provided with grant funds under this section.

(2) EVALUATION ACCORDING TO PERFORMANCE MEASURES.—Applying the performance measures developed under paragraph (1), the Secretary shall evaluate the programs provided with grant funds under this section in order to—

(A) judge the performance and effectiveness of such programs;

(B) identify which programs represent the best practices of entities developing such programs for mid-life and older individuals; and

(C) identify which programs may be replicated.

(3) ANNUAL REPORTS.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the status of the grant program under this section, a description of the programs provided with grant funds under this section, and the results of the evaluation of such programs under paragraph (2).

SEC. 4. NATIONAL TRAINING AND TECHNICAL ASSISTANCE PROGRAM.

(a) AUTHORITY.—The Secretary is authorized to award a grant to 1 or more eligible entities to—

(1) create and make available instructional materials and information that promote financial education; and

(2) provide training and other related assistance regarding the establishment of financial education programs to eligible entities awarded a grant under section 3.

(b) ELIGIBLE ENTITIES.—An entity is eligible to receive a grant under this section if such entity is a national nonprofit organization with substantial experience in the field of financial education.

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(d) BASIS AND TERM.—The Secretary shall award a grant under this section on a competitive, merit basis for a term of 5 years.

SEC. 5. DEFINITIONS.

In this Act:

(1) FINANCIAL EDUCATION.—The term ''financial education'' means education that promotes an understanding of consumer, economic, and personal finance concepts, including saving for retirement, long-term care, and estate planning and education on predatory lending and financial abuse schemes.

(2) MID-LIFE INDIVIDUAL.—The term ''mid-life individual'' means an individual aged 45 to 64 years.

(3) OLDER INDIVIDUAL.—The term ''older individual'' means an individual aged 65 or older.

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

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this Act, $100,000,000 for each of the fiscal years 2006 through 2010.

(b) LIMITATION ON FUNDS FOR EVALUATION AND REPORT.—The Secretary may not use more than $200,000 of the amounts appropriated under subsection (a) for each fiscal year to carry out section 3(e).

(c) LIMITATION ON FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE.—The Secretary may not use less than 5 percent or more than 10 percent of amounts appropriated under subsection (a) for each fiscal year to carry out section 4.

By Mr. CORZINE (for himself, Mr. AKAKA, Ms. STABENOW, Mr. LAUTENBERG, and Mr. BAUCUS):

S. 925. A bill to promote youth financial education; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce the Youth Financial Education Act. I am pleased to introduce this bill during the month of April—Financial Literacy Month.

It is hard to underestimate the importance of financial literacy for our youth. As credit, banking, and financial systems in this country become more and more complex, it is time to make sure that our education system teaches our children the fundamental principles of earning, spending, saving and investing, so that they can be successful citizens. Federal Reserve Chairman Alan Greenspan said himself that ''Improving basic financial education at the elementary and secondary school levels is essential to providing a foundation for financial literacy that can help prevent younger people from making poor financial decisions.'' It is crucial not only for the well-being of our children, but for the future of our society as a whole that all citizens understand how to manage a checking account, use a credit card, and estimate their taxes.

According to the Jump$tart Coalition for Personal Financial Literacy's Survey of High School Seniors, which measures students' aptitude and ability to manage financial resources such as credit cards, insurance, retirement funds and savings accounts, only 52.3 percent of students answered the survey questions correctly. In less than a year, 54 percent of these students who go onto college will carry a credit card. These statistics make it evident that we must do more to arm our youth with the tools they need to make informed decisions about the fiscal realities they will face upon entering college or the workforce.

In 2004, only 7 states required students to complete a course that includes personal finance before graduating from high school. In my home State of New Jersey, New Egypt High School is the only school that requires a course financial education. Several years ago I had the pleasure of teaching a class of these students, and came away impressed with their knowledge and competency in financial matters.

While awareness of the importance of financial literacy is improving, it is still not being addressed appropriately in schools. Our schools must prepare our children to succeed in every way, including in their financial decisions.

I am pleased that I successfully added a provision to the No Child Left Behind Act giving elementary and secondary schools access to funds that will allow them to include financial education as part of their basic educational curriculum. Although this was an important step in the right direction, Congress can and should do more to address this Issue.

The legislation I am introducing today will provide grants to States to help them develop and implement financial education programs in elementary and secondary schools. These programs will offer professional development for teachers and prepare them to provide financial education. It would also establish a national clearinghouse for instructional materials and information regarding model financial education programs.

Earlier this year, the Senate debated the Bankruptcy Reform Bill that seeks to change the rules governing bankruptcy. While I agree that bankruptcy reform should provide an incentive for capable individuals to honor their financial obligations, this legislation will make it that much more difficult for people who have fallen into debt to declare bankruptcy. With these reforms imminent, it will be all the more critical to take a proactive approach to the problem of personal debt in this country and make sure that the next generation learns how to better manage their money.

I ask for my colleagues to join me in support of the Youth Financial Education Act, which will equip our nation's youth with skills to become responsible consumers and enjoy economic security as well as economic opportunity in their futures.

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. 925

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

SECTION 1. PROMOTING YOUTH FINANCIAL LITERACY.

Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

"PART D—PROMOTING YOUTH FINANCIAL LITERACY

"SEC. 4401. SHORT TITLE AND FINDINGS.

''(a) SHORT TITLE.—This part may be cited as the 'Youth Financial Education Act'.

''(b) FINDINGS.—Congress finds the following:

''(1) In order to succeed in our dynamic American economy, young people must obtain the skills, knowledge, and experience necessary to manage their personal finances and obtain general financial literacy. All young adults should have the educational tools necessary to make informed financial decisions.

''(2) Despite the critical importance of financial literacy to young people, the average student who graduates from high school lacks basic skills in the management of personal financial affairs. A nationwide survey conducted in 2004 by the Jump$tart Coalition for Personal Financial Literacy examined the financial knowledge of 4,074 12th graders. On average, survey respondents answered only 52 percent of the questions correctly. This figure is up only slightly from the 50 percent average score in 2002.

''(3) An evaluation by the National Endowment for Financial Education High School Financial Planning Program undertaken jointly with the United States Department of Agriculture Cooperative State Research, Education, and Extension Service demonstrates that as little as 10 hours of classroom instruction can impart substantial knowledge and affect significant change in how teens handle their money.

''(4) State educational leaders have recognized the importance of providing a basic financial education to students in kindergarten through grade 12 by integrating financial education into State educational standards, but by 2004, only 7 States required students to complete a course that covered personal finance before graduating from high school.

''(5) Teacher training and professional development are critical to achieving youth financial literacy. Teachers should be given the tools they need to educate our Nation's youth on personal finance and economics.

''(6) Personal financial education helps prepare students for the workforce and for financial independence by developing their sense of individual responsibility, improving their life skills, and providing them with a

thorough understanding of consumer economics that will benefit them for their entire lives.

''(7) Financial education integrates instruction in valuable life skills with instruction in economics, including income and taxes, money management, investment and spending, and the importance of personal savings.

''(8) The consumers and investors of tomorrow are in our schools today. The teaching of personal finance should be encouraged at all levels of our Nation's educational system, from kindergarten through grade 12.

''SEC. 4402. STATE GRANT PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary is authorized to provide grants to State educational agencies to develop and integrate youth financial education programs for students in elementary schools and secondary schools.

''(b) STATE PLAN.—

''(1) APPROVED STATE PLAN REQUIRED.—To be eligible to receive a grant under this section, a State educational agency shall submit an application that includes a State plan, described in paragraph (2), that is approved by the Secretary.

''(2) STATE PLAN CONTENTS.—The State plan referred to in paragraph (1) shall include—

''(A) a description of how the State educational agency will use grant funds;

''(B) a description of how the programs supported by a grant will be coordinated with other relevant Federal, State, regional, and local programs; and

''(C) a description of how the State educational agency will evaluate program performance.

''(c) ALLOCATION OF FUNDS.—

''(1) ALLOCATION FACTORS.—Except as otherwise provided in paragraph (2), the Secretary shall allocate the amounts made available to carry out this section pursuant to subsection (a) to each State according to the relative populations in all the States of students in kindergarten through grade 12, as determined by the Secretary based on the most recent satisfactory data.

''(2) MINIMUM ALLOCATION.—Subject to the availability of appropriations and notwithstanding paragraph (1), a State that has submitted a plan under subsection (b) that is approved by the Secretary shall be allocated an amount that is not less than $500,000 for a fiscal year.

''(3) REALLOCATION.—In any fiscal year an allocation under this subsection—

''(A) for a State that has not submitted a plan under subsection (b); or

''(B) for a State whose plan submitted under subsection (b) has been disapproved by the Secretary;

shall be reallocated to States with approved plans under this section in accordance with paragraph (1).

''(d) USE OF GRANT FUNDS.—

''(1) REQUIRED USES.—A grant made to a State educational agency under this part shall be used—

''(A) to provide funds to local educational agencies and public schools to carry out financial education programs for students in kindergarten through grade 12 based on the concept of achieving financial literacy through the teaching of personal financial management skills and the basic principles involved with earning, spending, saving, and investing;

''(B) to carry out professional development programs to prepare teachers and administrators for financial education; and

''(C) to monitor and evaluate programs supported under subparagraphs (A) and (B).

''(2) LIMITATION ON ADMINISTRATIVE COSTS.—A State educational agency receiving a grant under subsection (a) may use not more than 4 percent of the total amount of the grant in each fiscal year for the administrative costs of carrying out this section.

''(e) REPORT TO THE SECRETARY.—Each State educational agency receiving a grant under this section shall transmit a report to the Secretary with respect to each fiscal year for which a grant is received. The report shall describe the programs supported by the grant and the results of the State educational agency's monitoring and evaluation of such programs.

''SEC. 4403. CLEARINGHOUSE.

''(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary shall make a grant to, or execute a contract with, an eligible entity with substantial experience in the field of financial education, such as the Jump$tart Coalition for Personal Financial Literacy, to establish, operate, and maintain a national clearinghouse (in this part referred to as the 'Clearinghouse') for instructional materials and information regarding model financial education programs and best practices.

''(b) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a national nonprofit organization with a proven record of—

''(1) cataloging youth financial literacy materials; and

''(2) providing support services and materials to schools and other organizations that work to promote youth financial literacy.

''(c) APPLICATION.—An eligible entity desiring to establish, operate, and maintain the Clearinghouse shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

''(d) BASIS AND TERM.—The Secretary shall make the grant or contract authorized under subsection (a) on a competitive, merit basis for a term of 5 years.

''(e) USE OF FUNDS.—The Clearinghouse shall use the funds provided under a grant or contract made under subsection (a)—

''(1) to maintain a repository of instructional materials and related information regarding financial education programs for elementary schools and secondary schools, including kindergartens, for use by States, localities, and the general public;

''(2) to disseminate to States, localities, and the general public, through electronic and other means, instructional materials and related information regarding financial education programs for elementary schools and secondary schools, including kindergartens; and

''(3) to the extent that resources allow, to provide technical assistance to States, localities, and the general public on the design, establishment, and implementation of financial education programs for elementary schools and secondary schools, including kindergartens.

''(f) CONSULTATION.—The chief executive officer of the eligible entity selected to establish and operate the Clearinghouse shall consult with the Department of the Treasury and the Securities Exchange Commission with respect to its activities under subsection (e).

''(g) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department that develops financial education programs and instructional materials for such programs shall submit to the Clearinghouse information on the programs and copies of the materials.

''(h) APPLICATION OF COPYRIGHT LAWS.—In carrying out this section the Clearinghouse shall comply with the provisions of title 17 of the United States Code.

''SEC. 4404. EVALUATION AND REPORT.

''(a) PERFORMANCE MEASURES.—The Secretary shall develop measures to evaluate the performance of programs assisted under sections 4402 and 4403.

''(b) EVALUATION ACCORDING TO PERFORMANCE MEASURES.—Applying the performance measures developed under subsection (a), the Secretary shall evaluate programs assisted under sections 4402 and 4403—

''(1) to judge their performance and effectiveness;

''(2) to identify which of the programs represent the best practices of entities developing financial education programs for students in kindergarten through grade 12; and

''(3) to identify which of the programs may be replicated and used to provide technical assistance to States, localities, and the general public.

''(c) REPORT.—For each fiscal year for which there are appropriations under section 4407(a), the Secretary shall transmit a report to Congress describing the status of the implementation of this part. The report shall include the results of the evaluation required under subsection (b) and a description of the programs supported under section 4402.

''SEC. 4405. DEFINITIONS.

''In this part:

''(1) FINANCIAL EDUCATION.—The term 'financial education' means educational activities and experiences, planned and supervised by qualified teachers, that enable students to understand basic economic and consumer principles, acquire the skills and knowledge necessary to manage personal and household finances, and develop a range of competencies that will enable the students to become responsible consumers in today's complex economy.

''(2) QUALIFIED TEACHER.—The term 'qualified teacher' means a teacher who holds a valid teaching certification or is considered to be qualified by the State educational agency in the State in which the teacher works.

''SEC. 4406. PROHIBITION.

''Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

''SEC. 4407. AUTHORIZATION OF APPROPRIATIONS.

''(a) AUTHORIZATION.—For the purposes of carrying out this part, there are authorized to be appropriated $100,000,000 for each of the fiscal years 2006 through 2010.

''(b) LIMITATION ON FUNDS FOR CLEARINGHOUSE.—The Secretary may use not less than 2 percent and not more than 5 percent of amounts appropriated under subsection (a) for each fiscal year to carry out section 4403.

''(c) LIMITATION ON FUNDS FOR SECRETARY EVALUATION.—The Secretary may use not more than $200,000 from the amounts appropriated under subsection (a) for each fiscal year to carry out subsections (a) and (b) of section 4404.

''(d) LIMITATION ON ADMINISTRATIVE COSTS.—Except as necessary to carry out subsections (a) and (b) of section 4404 using amounts described in subsection (c) of this section, the Secretary shall not use any portion of the amounts appropriated under subsection (a) for the costs of administering this part.''.

By Mr. INHOFE (for himself, Mr. VITTER, and Mr. ENZI):

S. 926. A bill to amend the Internal Revenue Code of 1986 to provide that the credit for producing fuel from a nonconventional source shall apply to gas produced onshore from a formation more than 15,000 feet deep; to the Committee on Finance.

Mr. INHOFE. Mr. President, today I proudly rise to introduce The Natural Gas Production Act of 2005.

One of the challenges facing our economy is increasing energy prices. Take, for example, natural gas that accounts for 22 percent of American energy consumption. According to the Energy Information Administration, over the next 20 years, U.S. natural gas consumption will increase by over 50 percent. At the same time, U.S. natural gas production will only grow by 14 percent. At a time when natural gas prices are already at an all time high, it is critical that we increase our supply by developing our domestic natural gas.

This legislation will provide an incentive to increase the supply of domestically produced natural gas, which in turn will help alleviate high natural gas prices.

The Natural Gas Production Act of 2005 will add natural gas produced from formations more than 15,000 feet deep (Deep Gas), to the list of qualifying fuels for the Section 29 non-conventional tax credit. Experts consider deep gas drilling at more than 15,000 feet to be a non-conventional source of energy production.

Studies show the resource potential below 15,000 feet for natural gas is great. The Department of Energy's Strategic Center for Natural Gas has estimated there to be 130 trillion cubic feet below 15,000 feet in the lower 48. In comparison, that is equal to the proven and potential reserves on the Alaskan North Slope.

While these vast reserves remain, very little production is occurring from depths greater than 15,000. Deep gas wells require a considerable amount of time and money. On average these wells cost more than $6.1 million, and for wells deeper than 20,000 feet costs can exceed $16 million. Add to that the minimum one-year and longer drilling time and you can clearly see that Federal drilling incentives are needed to help promote and speed production of this enormous potential resource.

To drill a deep well, a drilling rig will employ about 25 people directly. In 1979, 128 deep well completions in Oklahoma created 2,630 jobs. In addition to direct jobs, economists estimate that 60 to 75 indirect jobs will be created as well.

Due to changes in the regulatory governance of the industry and cyclical market conditions over the next two and one-half decades, deep drilling activity all across the country has declined substantially.

I am introducing this legislation, along with Senator VITTER, today to encourage more domestic production in an area of proven reserves that will increase our supply. I thank Senator VITTER for his work and I urge members to support us in this effort. I ask consent that the text of the bill be printed in the RECORD.

If you have any questions, please contact Mike Ference on my Staff at 224–1036.

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

S. 926

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 ''Natural Gas Production Act of 2005''.

SEC. 2. CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE TO APPLY TO GAS PRODUCED ONSHORE FROM FORMATIONS MORE THAN 15,000 FEET DEEP.

(a) IN GENERAL.—Subparagraph (B) of section 29(c)(1) of the Internal Revenue Code of 1986 (defining qualified fuels) is amended by striking ''or'' at the end of clause (i), by striking ''and'' at the end of clause (ii) and inserting ''or'', and by inserting after clause (ii) the following new clause:

''(iii) an onshore well from a formation more than 15,000 feet deep, and''.

(b) ELIGIBLE WELLS.—Section 29 of such Code is amended by adding at the end the following new subsection:

''(h) ELIGIBLE DEEP GAS WELLS.—In the case of a well producing qualified fuel described in subsection (B)(iii)—

''(1) for purposes of subsection (f)(1)(A), such well shall be treated as drilled before January 1, 1993, if such well is drilled after the date of the enactment of this subsection, and

''(2) subsection (f)(2) shall not apply.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SARBANES, Mr. JOHNSON, Ms. LANDRIEU, and Mr. KENNEDY):

S. 927. A bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce a very important piece of legislation, the Medicare Mental Health Modernization Act of 2005.

Our Nation's Medicare beneficiaries—our elderly and disabled population—have limited access to mental health services. Medicare restricts the types of mental health services available to beneficiaries and the types of providers who are allowed to offer such care. It also charges higher copayments for mental health services than it does for all other health care. In order to receive mental health care, seniors and the disabled must pay 50 percent of the cost of a visit to their mental health specialist, as opposed to the 20 percent that they pay for other services. Medicare also limits the number of days a beneficiary can receive mental health care in a hospital setting to 190 days over an individual's lifetime.

We must address this problem. The need is glaring. Almost 20 percent of Americans over age 65 have a serious mental disorder. They suffer from depression, Alzheimer's disease, dementia, anxiety, late-life schizophrenia and, all too often, substance abuse. These are serious illnesses that must be treated. Unfortunately, they are often unidentified by primary care physicians, or the appropriate services are simply out of reach. Americans age 65 and older have the highest rate of suicide of any other population in the United States. An alarming 70 percent of elderly suicide victims have visited their primary care doctor in the month prior to committing suicide.

Medicare is also the primary source of health insurance for millions of non-elderly disabled. More than 20 percent of these individuals suffer from mental illness and/or addiction. This very needy population faces the same discrimination in their mental health coverage.

As our population ages, the burden of mental illness on seniors, their families, and the health care system will only continue increase. Experts estimate that by the year 2030, 15 million people over 65 will have psychiatric disorders, with the number of individuals suffering from Alzheimer's disease doubling. If we do not reform the Medicare program to provide greater access to detection and treatment of mental illness, the cost of not treating these diseases will rapidly escalate. Without the appropriate outpatient mental health services, too many of our seniors are forced into nursing homes and hospitals. If We truly want to modernize Medicare and make it more efficient, we must provide access to these services. Not only will they likely reduce costs in the long term, but they will also increase Medicare beneficiaries' quality of life.

The Medicare Mental Health Modernization Act takes critical steps to address these issues. First, the bill reduces the 50 percent copayment for mental health services to 20 percent. The proposed 20 percent copayment is the same as the copayment for all other outpatient services in Medicare. Second, the bill would provide access to intensive residential services for those who are suffering from severe mental illness. This will give people with Alzheimer's disease and other serious mental illness the opportunity to be cared for in their homes or in community-based settings. Third, the bill expands the number of qualified mental health professionals eligible to provide services through the Medicare program. This includes licensed professional mental health counselors, clinical social workers, and marriage and family therapists. This expansion of qualified providers is critical to ensuring that seniors throughout the nation, particularly those in rural areas, are able to receive the services they need.

In closing, I urge all of my colleagues to step forward to support the Medicare Mental Health Modernization Act of 2005. It is time for the Medicare program to stop discriminating against seniors and the disabled who are suffering from mental illness.

By Mrs. LINCOLN:

S. 928. A bill to amend the Internal Revenue Code of 1986 to provide for the

immediate and permanent repeal of the estate tax on family-owned businesses and farms, and for other purposes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, four years ago, as projected budget surpluses reached over $5 trillion, Congress passed a tax cut bill that began the process of addressing the unfairness of the estate tax. Now in 2005, the surpluses have long since disappeared, and Congress has made no further progress on estate tax relief for America's family-owned farms and businesses—many of whom still pay this tax today.

Earlier this month, the House once again voted for a complete repeal of the estate tax. I myself have consistently supported complete repeal, I have voted in favor of full repeal on multiple occasions, and I will continue to support full repeal should that option be brought to the floor of the U.S. Senate for a vote in the future. Nevertheless, given the persistent state of our more than $400 billion annual deficits, it is increasingly doubtful such a bill could obtain the necessary votes in the Senate for passage right now.

I'm not alone in feeling that the votes just aren't there for full repeal. President of the U.S. Chamber, Tom Donahue, was quoted this week stating that the Chamber would likely support a good compromise coming out of the Senate. We all understand the state of affairs and I want to echo Mr. Donahue's sentiments. We must work together to bring relief to those that this tax affects most—family-owned farms and businesses.

It is the family-owned farms and businesses across Arkansas and all across this Nation that serve as the backbone of our rural communities. To put it simply, they are the economic engines of rural America. It is the family-owned businesses that provide jobs, wages, and health care for my constituents. It is the family-owned businesses that sponsor Little League, they pay local taxes, they are a part of the community. They live there. And that's why family-owned businesses aren't the ones that are shutting down and heading off-shore. When we force family businesses to spend valuable assets on estate planning and life insurance rather than on investing and expanding their businesses, we are putting them at a disadvantage to their publically-traded competitors. I, for one, intend to fight for these family businesses, fight for these communities, and fight for the jobs in rural America.

In the wake of the House vote and the real lack of votes here in the Senate to pass a complete repeal bill, talk of compromise has raised speculation of higher exemptions and/or lower tax rates as an alternative to complete repeal.

Quite frankly, I believe these compromise approaches are incomplete solutions to the problems faced by family-owned farms and businesses. Certainly, I understand that a higher exemption and lower rates will be considered as part of a compromise. But both are expensive and inefficient methods to specifically reach family-owned farms and businesses.

Given the restraints of our budget deficits today, I ask, how can we raise the exemption high enough, or lower the rates low enough, to provide necessary relief for family farms and businesses?

We could not get there in 2001 when projected surpluses reached $5 trillion. What makes us think we can solve this problem today with projected deficits totaling $2.6 trillion in the President's budget?

We took these approaches in 2001, and family-owned farms and businesses still face this tax today, so we should be leery of any compromise approach that considers only rates and exemptions. They were incomplete compromise solutions then—and they will be tomorrow.

In this environment, I feel we are seriously losing ground on coming to a fair and final resolution of this issue. In the meantime, the current state of the law places many family-owned businesses in an extremely uncertain and precarious position—a law that taxes family-owned businesses today, then repeals the tax in 2010, and then snaps back to pre–2001 law in 2011 is simply not responsible on our part. This amounts to nothing more than a nightmarish rollercoaster ride for the businesses we intended to help!

So, we need to set some priorities and go about the business of lifting this tax from these family-owned farms and businesses first.

On the subject of setting priorities, I would like to relay a statistic that may startle my colleagues a bit. The IRS Statistics of Income for 2003 show that only 7.4 percent of the estate tax is paid on ''farm assets, closely held stock, or other non-corporate business assets.'' These 7.4 percent should be our first priority in any compromise the estate tax. The remaining 92.6 percent of assets—such as widely-held stock, bonds, insurance proceeds, art, and real estate partnerships—should not drive or dictate our actions at the expense of America's family-owned farms and businesses.

This simple statistic helps lead us to a targeted solution which should cost less and immediately help those we intended to help in the first place. Today, I introduce the ''Estate Tax Repeal Acceleration for Family-Owned Businesses and Farms Act''—or ExTRA. Under ExTRA, an estate may voluntarily elect to exclude an unlimited portion of family business assets from the estate tax. The carryover basis rules will apply to these business assets and no estate tax will be paid on them. That is the same deal that repeal promises—but we do so immediately and permanently—and at a fraction of the cost.

My bill does not seek to change current law to repeal the estate tax. It would leave in place the scheduled increases in the unified credit, the decreases in rates, and the repeal of the estate tax in 2010. My bill would only seek to rectify the special circumstances of family-owned businesses and farms, in an attempt, not to inflame the issue further, but to resolve this issue now and forever for those this effort was originally intended to help.

The goal of the Lincoln bill is that no family-owned farm or business will ever pay the estate tax. Americans are driven to build their lives and their communities and they want to be able to pass that on to the next generation. What comes of the American dream if someone works hard all their life to build something to pass on to their family, their legacy, and it has to be sold for taxes.

If there is an idea that will protect the American dream and the family-owned business, we should not be reluctant to put it on the table. Today, I am introducing such an idea, and I firmly believe such an approach must be part of any compromise if one is reached. In fact, I will not support any compromise that does not take care of family businesses in Arkansas.

I urge my colleagues to take a look and study the Lincoln bill to immediately and permanently repeal the estate tax for family owned farms and businesses.

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. 928

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 ''Estate Tax Repeal Acceleration (ExTRA) for Family-Owned Businesses and Farms Act''.

SEC. 2. REPEAL OF ESTATE TAX ON FAMILY-OWNED BUSINESSES AND FARMS.

(a) CARRYOVER BUSINESS INTEREST EXCLUSION.—Part IV of subchapter A of chapter 11 of the Internal Revenue Code of 1986 (relating to taxable estate) is amended by inserting after section 2058 the following new section:

''SEC. 2059. CARRYOVER BUSINESS INTERESTS.

''(a) GENERAL RULES.—

''(1) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the carryover business interests of the decedent which are described in subsection (b)(2).

''(2) APPLICATION OF CARRYOVER BASIS RULES.—With respect to the adjusted value of the carryover business interests of the decedent which are described in subsection (b)(2), the rules of section 1023 shall apply.

''(b) ESTATES TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—This section shall apply to an estate if—

''(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

''(B) the executor elects the application of this section under rules similar to the rules of paragraphs (1) and (3) of section 2032A(d) and files the agreement referred to in subsection (e), and

''(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

''(i) the carryover business interests described in paragraph (2) were owned by the decedent or a member of the decedent's family, and

''(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent, a member of the decedent's family, or a qualified heir in the operation of the business to which such interests relate.

''(2) INCLUDIBLE CARRYOVER BUSINESS INTERESTS.—The carryover business interests described in this paragraph are the interests which—

''(A) are included in determining the value of the gross estate,

''(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)), and

''(C) are subject to the election under paragraph (1)(B).

''(3) RULES REGARDING MATERIAL PARTICIPATION.—For purposes of paragraph (1)(C)(ii)—

''(A) in the case a surviving spouse, material participation by such spouse may be satisfied under rules similar to the rules under section 2032A(b)(5),

''(B) in the case of a carryover business interest in an entity carrying on multiple trades or businesses, material participation in each trade or business is satisfied by material participation in the entity or in 1 or more of the multiple trades or businesses, and

''(C) in the case of a lending and finance business (as defined in section 6166(b)(10)(B)(ii)), material participation is satisfied under the rules under subclause (I) or (II) of section 6166(b)(10)(B)(i).

''(c) ADJUSTED VALUE OF THE CARRYOVER BUSINESS INTERESTS.—For purposes of this section—

''(1) IN GENERAL.—The adjusted value of any carryover business interest is the value of such interest for purposes of this chapter (determined without regard to this section), as adjusted under paragraph (2).

''(2) ADJUSTMENT FOR PREVIOUS TRANSFERS.—The Secretary may increase the value of any carryover business interest by that portion of those assets transferred from such carryover business interest to the decedent's taxable estate within 3 years before the date of the decedent's death.

''(d) CARRYOVER BUSINESS INTEREST.—

''(1) IN GENERAL.—For purposes of this section, the term 'carryover business interest' means—

''(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

''(B) an interest in an entity carrying on a trade or business, if—

''(i) at least—

''(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

''(II) 70 percent of such entity is so owned by members of 2 families, or

''(III) 90 percent of such entity is so owned by members of 3 families, and

''(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

For purposes of the preceding sentence, a decedent shall be treated as engaged in a trade or business if any member of the decedent's family is engaged in such trade or business.

''(2) LENDING AND FINANCE BUSINESS.—For purposes of this section, any asset used in a lending and finance business (as defined in section 6166(b)(10)(B)(ii)) shall be treated as an asset which is used in carrying on a trade or business.

''(3) LIMITATION.—Such term shall not include—

''(A) any interest in a trade or business the principal place of business of which is not located in the United States,

''(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time,

''(C) that portion of an interest in an entity transferred by gift to such interest within 3 years before the date of the decedent's death, and

''(D) that portion of an interest in an entity which is attributable to cash or marketable securities, or both, in any amount in excess of the reasonably anticipated business needs of such entity.

In any proceeding before the United States Tax Court involving a notice of deficiency based in whole or in part on the allegation that cash or marketable securities, or both, are accumulated in an amount in excess of the reasonably anticipated business needs of such entity, the burden of proof with respect to such allegation shall be on the Secretary to the extent such cash or marketable securities are less than 35 percent of the value of the interest in such entity.

''(4) RULES REGARDING OWNERSHIP.—

''(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

''(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

''(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

''(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

''(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a carryover business interest, and

''(ii) this section shall be applied separately in determining if such interest in any other trade or business is a carryover business interest.

''(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

''(e) AGREEMENT.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of this section with respect to such property.

''(f) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

''(1) QUALIFIED HEIR.—The term 'qualified heir' means a United States citizen who is—

''(A) described in section 2032A(e)(1), or

''(B) an active employee of the trade or business to which the carryover business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

''(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

''(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

''(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

''(B) Section 2032A(e)(10) (relating to community property).

''(C) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

''(D) Section 2032A(g) (relating to application to interests in partnerships, corporations, and trusts).

''(4) SAFE HARBOR FOR ACTIVE ENTITIES HELD BY ENTITY CARRYING ON A TRADE OR BUSINESS.—For purposes of this section, if—

''(A) an entity carrying on a trade or business owns 20 percent or more in value of the voting interests of another entity, or such other entity has 15 or fewer owners, and

''(B) 80 percent or more of the value of the assets of each such entity is attributable to assets used in an active business operation, then the requirements under subsections (b)(1)(C)(ii) and (d)(3)(D) shall be met with respect to an interest in such an entity.''.

(b) CARRYOVER BASIS RULES FOR CARRYOVER BUSINESS INTERESTS.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1022 the following new section:

''SEC. 1023. TREATMENT OF CARRYOVER BUSINESS INTERESTS.

''(a) IN GENERAL.—Except as otherwise provided in this section—

''(1) qualified property acquired from a decedent shall be treated for purposes of this subtitle as transferred by gift, and

''(2) the basis of the person acquiring qualified property from such a decedent shall be the lesser of—

''(A) the adjusted basis of the decedent, or

''(B) the fair market value of the property at the date of the decedent's death.

''(b) QUALIFIED PROPERTY.—For purposes of this section, the term 'qualified property' means the carryover business interests of the decedent with respect to which an election is made under section 2059(b)(1)(B).

''(c) PROPERTY ACQUIRED FROM THE DECEDENT.—For purposes of this section, the following property shall be considered to have been acquired from the decedent:

''(1) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent.

''(2) Property transferred by the decedent during his lifetime—

''(A) to a qualified revocable trust (as defined in section 645(b)(1)), or

''(B) to any other trust with respect to which the decedent reserved the right to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust.

''(3) Any other property passing from the decedent by reason of death to the extent that such property passed without consideration.

''(d) COORDINATION WITH SECTION 691.—This section shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 691.

''(e) CERTAIN LIABILITIES DISREGARDED.—

''(1) IN GENERAL.—In determining whether gain is recognized on the acquisition of property—

''(A) from a decedent by a decedent's estate or any beneficiary other than a tax-exempt beneficiary, and

''(B) from the decedent's estate by any beneficiary other than a tax-exempt beneficiary, and in determining the adjusted basis of such property, liabilities in excess of basis shall be disregarded.

''(2) TAX-EXEMPT BENEFICIARY.—For purposes of paragraph (1), the term 'tax-exempt beneficiary' means—

''(A) the United States, any State or political subdivision thereof, any possession of the United States, any Indian tribal government (within the meaning of section 7871), or any agency or instrumentality of any of the foregoing,

''(B) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by chapter 1,

''(C) any foreign person or entity (within the meaning of section 168(h)(2)), and

''(D) to the extent provided in regulations, any person to whom property is transferred for the principal purpose of tax avoidance.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part IV of subchapter A of chapter 11 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 2058 the following new item:

''Sec. 2059. Carryover business exclusion.''.

(2) The table of sections for part II of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1022 the following new item:

''Sec. 1023. Treatment of carryover business interests.''.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to estates of decedents dying, and gifts made—

(1) after the date of the enactment of this Act, and before January 1, 2010, and

(2) after December 31, 2010.

By Mr. ALLEN (for himself, Mr. CHAMBLISS, Mr. INHOFE, Mr. COBURN, Mr. TALENT, Mr. CORNYN, and Mr. ISAKSON):

S. 929. A bill to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations; to the Committee on the Judiciary.

Mr. ALLEN. Mr. President, I rise in support of legislation that I reintroduced today with a number of my Senate colleagues—the Volunteer Pilot Organization Protection Act of 2005.

The spirit of volunteerism is indelibly rooted in our Nation's history. From when early settlers landed in Jamestown in 1607 to when our citizen soldiers took up arms against the British Crown in the Revolutionary War, volunteerism has always been a part of American culture.

But that unwavering spirit did not stop there, it has continued and thrived in many individuals and charitable organizations today. One such group of organizations that has selflessly given back so much to Virginians and Americans are charitable medical transportation systems operated by volunteer pilot organizations, VPOs.

The mission and purpose of public benefit and non-profit volunteer pilot organizations involved in patient transport is to ensure that no financially needy patient is denied access to distant specialized medical evaluation, diagnosis or treatment for lack of a means of long-distance medical air transportation. The principal goal is to remove the geographical and financial burdens that would deny access to specialized care.

Last year public benefit flying nonprofit volunteer pilot organizations provided long-distance, no-cost transportation for over 40,000 patients and their escorts in times of special need. Mr. President, this year, that figure will likely grow to roughly 54,000 people.

One such organization that has played an intricate part in this mission is Angel Flight. Angel Flight is a not-for-profit grassroots organization with a volunteer corps of more than 6,200 volunteer pilots/plane owners—divided into six regions across the United States—who fly under the banner of Angel Flight America. Angel Flight provides flights of hope and healing by transporting patients and their families in private planes, free of charge, to hospitals for medical treatment.

Following the terrorist attacks of September 11, 2001, the Department of Transportation and the FAA closed airports and grounded commercial air traffic, but the FAA allowed Angel Flight volunteers to fly. Angel Flight pilots flew firefighters, families of victims of the bombings, Red Cross personnel, medical and other supplies including the protective booties for the Search and Rescue dogs to New York and Washington, DC.

In my years of public service, I have always maintained that we must provide access to care to all Virginians and Americans. Medical care should be available to all individuals. Sadly, our Nation is facing a medical crisis. Medical malpractice insurance costs and Medicare physician reimbursement are forcing many of our doctors to stop seeing ''high-risk'' patients or Medicare beneficiaries and in some cases forcing our doctors to give up practice altogether and retire. As a result, patients have to travel great distances to receive the medical care that they need to live happy, healthy and productive lives. Unfortunately, a number of these patients do not have the financial means to travel long distances, thus, ultimately denying patients access to life-saving or quality of life improving specialized treatment.

We can say the same with patients who rely on volunteer pilot organizations such as Angel Flight or one of its subsidiary groups like Mercy Medical Airlift in my home Commonwealth of Virginia. Unfortunately, due to the public's apparent notion that organizations that use airplanes are financially well-off and have deep pockets, many of the volunteer pilot organizations are open to frivolous and junk lawsuits. This leads to an access to care issue.

Also, aviation insurance has skyrocketed up in price and non-owned aircraft liability insurance is no longer reasonably available to volunteer pilot organizations. Many insurance companies had always provided this type of insurance but post September 11, 2001, this insurance is scarcely found and if found, the costs have increased greatly, to the astronomical sums of $5 million a year. Because of the exorbitant costs of insurance, volunteer pilot organizations have a difficult time recruiting and retaining pilots and professional persons.

I would like to submit an editorial written by the Virginian Pilot. This editorial correctly identifies the obstacles that these volunteer pilot organizations have to go through. I would like that editorial inserted here.

That is why I decided to introduce the Volunteer Pilot Organization Protection Act. In 1997, Congress passed the Volunteer Protection Act, which handled much of the liability issue for volunteer endeavors in the country; however, this legislation did not adequately address aviation-related matters.

My bill amends the highly regarded Good Samaritan Act to provide necessary liability protections in the area of charitable medical air transportation and promote volunteer pilot organizations. More specifically, this legislation will protect volunteer pilot organizations, their boards and small paid staff and nonflying volunteers from liability should there be an accident. The VPOs are simply the ''matchmakers'' between the volunteer pilot willing to help a neighbor and the needy patient family. The pilot has full and sole responsibility for conducting the flight in a safe manner in accordance with Federal Aviation Regulations. In addition, this legislation will provide liability protection for the individual volunteer pilot over and above the liability insurance that they are required to carry.

Furthermore, the Volunteer Pilot Protection Act will provide liability protection for ''referring agencies'' who tell their patients that the charitable flight service is available. Referring hospitals and clinics are becoming unwilling to inform their patients that charitable medical air transportation help is available for fear of a liability against them should something happen in a subsequent volunteer pilot flight. Hence, organizations like the Shriners Hospital System and the American Cancer Society would be able to make known available volunteer pilot services to transport their patients to Shriners or other hospitals where they receive care.

I know a few people have concerns that this bill would provide blanket immunity to Volunteer Pilot Organizations but I want to stress that my bill requires insurance on the part of the pilot and if there is negligence on behalf of the pilot, the injured party does have legal recourse. This bill does not provide blanket immunity to VPOs, but has been carefully worded to allow

legal action to be brought against the insurance policy of the pilot in event of negligence.

By providing volunteer pilots with liability protection, insurance rates for these pilots will ultimately be reduced. Therefore, more pilots will be able to afford insurance and fly for the public good. With less-costly insurance available, I am confident that more pilots will generously give their time to fly for and help the medically needy.

This bill enjoys the support of a number of charitable organizations, including the Children's Organ Transplant Association, the National Organization for Rare Disorders, the Air Care Alliance, the Independent Charities of America, the Health and Medical Research Charities of America, the National Association of Hospital Hospitality Houses, and many others.

Not only does this legislation enjoy the support of numerous charitable organizations, it also enjoyed the support of the United States House of Representatives. On September 14, 2004, the House of Representatives passed the Volunteer Pilot Organization Protection Act of2004 by a vote of 385–12. Mr. President, this is a clear indication that this bill has broad bipartisan support in the House and I know the House will once again pass this commonsense legislation.

I am confident that this legislation will start a trend to help curb the large amounts of counterproductive lawsuits, lower insurance costs, and promote the spirit of volunteerism that has been rooted in the framework of our country's storied history. I, along with the volunteer pilots and organizations, and with the thousands of families who rely and may rely on the help of volunteer pilot organizations, urge the Senate to quickly and finally pass this legislation in the 109th Congress.

I would like to thank Congresswoman THELMA DRAKE, our newest member to the Virginia team, for taking over this legislation for former Congressman Ed Schrock and introducing the companion bill on the House side. In addition, I would also like to thank the original cosponsors of this legislation, Senators CHAMBLISS, INHOFE, COBURN, TALENT, CORNYN, and ISAKSON for their support as we work to pass this vitally necessary legislation.

[From the (Norfolk) Virginian-Pilot, Mar. 11, 2003]

SHIELD HELPFUL PILOTS FROM FRIVOLOUS LAWSUITS

In the realm of volunteers, few outshine the generous folks at Angel Flight.

This nonprofit organization flies patients for whom air transport would be otherwise unaffordable to medical facilities around the country. Private pilots spirit individuals to dialysis, chemotherapy sessions, organ transplants and other surgeries by donating their aircraft and their valuable time. The goal is a noble one: to ensure that no one in need is denied medical care for lack of long-distance transportation.

But in our lawsuit-happy society, even these warmhearted souls can't escape the possibility of landing in court. While a law known as the Volunteer Protection Act shields most people who give their time to worthy causes from frivolous suits, it doesn't cover volunteer pilots or flight organizers. Liability insurance costs for Angel Flight and similar nonprofits have skyrocketed from $1,000 to more than $25,000 annually.

This prohibitive price tag threatens the future of Angel Flight, which is funded solely through donations. A spokeswoman for Angel Flight Mid-Atlantic, headquartered in Virginia Beach, said the burden will ultimately fall on sick and needy patients. And with 600 volunteer pilots transporting an average of 100 medical cases a month, literally thousands of lives may be affected by this oversight in the law.

Fortunately, lawmakers are paying attention. U.S. Rep. Ed Schrock recently introduced bipartisan legislation to add volunteer-pilot organizations to the ranks of those covered by the Volunteer Protection Act. U.S. Sen. George Allen is expected to introduce a similar measure in the Senate. Congress should pass these bills, the sooner the better. Keeping Angel Flight aloft is literally a life-and-death matter.

By Mr. GRASSLEY (for himself and Mr. DODD):

S. 930. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to drug safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GRASSLEY. Mr. President, today I introduce Senate Bill 930, the Food and Drug Administration Safety Act of 2005. I am pleased that Senator DODD is co-sponsoring another piece of drug safety legislation with me. This legislation is part of a sustained effort to restore public confidence in the Federal Government's food and drug safety agency. Enactment of this bill will be another meaningful step toward greater accountability and transparency at the FDA. Importantly, this legislation provides the FDA with some much needed authorities to ensure the safety and efficacy of drugs for the long haul.

The Food and Drug Administration cannot always serve the American people and the interests of the drug industry at the same time. These two interests are often at odds with each other. When there is a conflict the American people should win out each and every time. The Vioxx situation is a classic example of this inherent conflict. American consumers demand and deserve assurances that the medicines in their cabinets are safe. The risks associated with a drug should be outweighed by its benefits, and this risk-benefit analysis should not be negotiated by the industry behind closed doors. Unfortunately, reforms at the FDA are necessary to place drug safety front and center once and for all.

When drugs go on the market, they are used by exponentially larger numbers of people than were involved in the pre-approval trials. What John Q. Public deserves and demands is for the FDA to embrace a renewed mission to pursue aggressively key safety questions that the industry would sometimes prefer to ignore. The FDA must protect the health of the public by considering not only the benefits but also the risks of drugs for the tens of millions of Americans who actually use new drugs already available in the marketplace. The FDA's post-market evaluation and research needs to be a separate but equal partner with pre-approval evaluation. Indeed FDA's post marketing surveillance function can no longer take a back seat within the agency.

I have been pressing for necessary reforms at the FDA—both administrative and legislative—and the focus of these reforms center on a reorganization of the FDA. The Food and Drug Administration Safety Act of 2005 will establish an independent Center within the FDA—the Center for Post-market Drug Evaluation and Research (CPDER). The new Center's primary mission, vision and values will focus on conducting risk assessment for approved drugs and biological products once they are on the market. The Director of the Center will report directly to the FDA Commissioner and will be responsible for monitoring and assessing the safety and efficacy of drugs and biological products.

Today's legislation is focused on the equal importance of pre-marketing evaluations by the Center for Drug Evaluation and Research (CDER)—the pre-market Center—and post-marketing evaluations by the newly established post-market Center. Consultation and coordination between pre-market and post-market Centers will be essential, but their relationship will place them on equal footing with the other. The present Office of Drug Safety will no longer be effectively under the thumb of the Office of New Drugs. We are hopeful that this reorganization of the FDA will go a long way toward eliminating the conflict of interest that shadows the FDA's post-market risk assessment presently.

Today's legislation will also: authorize the Director to require manufacturers to conduct post-market clinical or observational studies if there are questions about the safety or efficacy of a drug or biological product.

Authorize the Director to determine whether an approved drug or licensed biological product may present an unreasonable risk to the health of patients or the general public, given the known benefits.

Authorize the Director to take corrective action if a drug or biological product presents an unreasonable risk to patients or the general public—including the authority to make changes to the label or approved indication, place restrictions on product distribution, require physician and consumer education, and require the use of other risk management tools.

Allow the Director to withdraw approval of a drug or biological product if necessary to protect the public health.

Require submission of advertising prior to dissemination, and certain advertising disclosures related to risks and benefits to patients, if one or more

of the three following conditions is met: the Director has determined that the product may present an unreasonable risk to patients, the product is the subject of an outstanding post-market study requirement, or the product was approved within the last two years.

Establish strong enforcement mechanisms, including civil monetary penalties, for those who fail to comply.

Ensure that the Director benefits from all appropriate resources, including but not limited to consultation with the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER), and makes all decisions based on a risk-benefit analysis.

Ensure that all findings and decisions made by CPDER are transparent.

Require a report and recommendations to Congress on post-market surveillance of medical devices.

Authorize graduated appropriations totaling $500 million over five years to ensure that CPDER has the resources to accomplish its goals.

Today's legislation is another important step toward reforming the FDA. I urge my colleagues to join me in this effort by cosponsoring this important legislation.

Mr. DODD. Mr. President, I rise today to join Senator GRASSLEY in announcing the introduction of the Food and Drug Administration Safety Act of 2005 (FDASA). I would like to thank Senator GRASSLEY for his commitment to this issue and his willingness to work on this important legislation in a bipartisan manner. Senator GRASSLEY and I have spent the past several months crafting this legislation, which will create a new center within the FDA that will be responsible for ensuring that prescription drugs are safe once they are on the market.

Our hope is that the creation of this new center will restore confidence in the medicines that so many Americans rely on to safeguard their health and well-being. Patients should be able to rest-assured that the drugs they take to help them will not hurt them instead.

The American pharmaceutical industry is a true success story. Their incredible innovations over the last few decades have saved and improved millions of lives, and made prescription drugs an integral part of quality health care. I am proud to say that Connecticut is home to a number of leading pharmaceutical companies. There is very little question that the American drug industry is the world leader. This is due, in no small part, to the FDA. Throughout the world, the FDA seal of approval—the words ''FDA Approved''—has stood as the gold standard for safety and quality.

Unfortunately, events of the past year have put patients at risk and have seriously tarnished the FDA's image. Recent developments have cast into doubt the FDA's ability to ensure that the drugs that it approves are safe—especially once they are on the market. These concerns are bad for patients, bad for physicians, and bad for the drug industry.

Like many Americans, I have been deeply disturbed by the revelations of significant risk associated with widely used medications to treat pain and depression. These revelations raise real and legitimate questions about the safety of drugs that have already been approved. It would be one thing if these drugs were in a trial phase, but safety issues are being identified in drugs that are already on the market and widely used. Health risks significant enough to remove drugs from the market or significantly restrict their use are becoming clear only after millions of Americans have been exposed to real or potential harm.

It has been estimated that more than 100,000 Americans might have been seriously injured or killed by a popular pain medication, while millions of children have been prescribed antidepressants that could put them at risk. This recent spate of popular medicines being identified as unsafe underscores the need to take additional steps to monitor and protect safety after a drug has been approved.

The legislation that Senator GRASSLEY and I are introducing today will do three things to restore confidence in the words ''FDA Approved,'' and ensure that the FDA has all the tools that it needs to protect patients. First and foremost, it will establish within the FDA a new center—the Center for Postmarket Drug Evaluation and Research (CPDER)—which will report directly to the FDA Commissioner and be responsible for ensuring the safety and effectiveness of drugs and biological products once they are on the market.

I strongly believe that the creation of such a new, independent center is necessary. There have been disturbing reports that suggest that the FDA does not place enough emphasis on drug safety, and that concerns raised by those in the Office of Drug Safety (ODS) are sometimes ignored and even suppressed. An internal study conducted by the HHS Office of the Inspector General in 2002 revealed that approximately one-fifth of drug reviewers had been pressured to approve a drug despite concerns about safety, efficacy, or quality. In addition, more than one-third said they were ''not at all'' or only ''somewhat'' confident that final decisions of the Center for Drug Evaluation and Research (CDER) adequately assessed safety. The creation of a new center will raise the profile of drug safety within the agency.

Second, our bill will provide the Director of CPDER with significant new authorities, including: the authority to require drug companies to conduct postmarket studies of their products if there are questions about safety or effectiveness; the authority to take corrective actions, such as labeling changes, restricted distribution, and other risk management tools, if an unreasonable risk exists; the authority to review drug advertisements before they are disseminated, and to require certain disclosures about increased risk; and in extreme cases, the authority to pull the product off the market.

These new authorities will allow the FDA to act quickly to get answers when there are questions about the safety of a drug, and to act decisively to mitigate the risks when the evidence shows that a drug presents a safety issue. With these authorities, we will never again have a situation where a critical labeling change takes two years to complete, as was the case with Vioxx. When we are talking about drugs that are already on the market and in widespread use, any delay can put millions of patients in harm's way.

Third and lastly, this legislation will authorize the appropriation of $500 million over the next 5 years to provide the new center with the resources to carry out the provisions of this legislation.

I would like to thank several groups that have endorsed this bill, and that were instrumental in its drafting, including Consumer's Union, the Elizabeth Glaser Pediatric AIDS Foundation, the National Organization for Rare Disorders (NORD), the National Women's Health Network (NWHN), the U.S. Public Interest Research Group (PIRG), the Consumer Federation of America, and the Center for Medical Consumers.

I look forward to working with all of my colleagues, including Senator ENZI and Senator KENNEDY on the HELP Committee, to see this legislation enacted as soon as possible. By strengthening the ability of the FDA to ensure the safety of prescription drugs once they are on the market, this legislation will allow physicians to prescribe, and patients to use, prescription drugs without wondering if the medicines intended to help them will hurt them instead. It will help ensure that the term ''FDA-Approved'' will remain the gold standard for safety and quality.

By Mr. BURNS:

S. 931. A bill to reduce temporarily the duty on certain articles of natural cork; to the Committee on Finance.

Mr. BURNS. Mr. President, today I am introducing legislation to address the difference between the import tariff placed on unfinished cork and refined cork. Unfinished cork has a higher import tariff than already-refined cork—this problem is in need of a resolution.

Unfinished cork is the principal element of a fishing pole's grip and must be imported as it is not available domestically. Many fishing rod companies reside in Montana, such as the R.L. Winston Rod Company of Twin Bridges. I am aware that fishing rod manufacturers, particularly fly-fishing rod manufacturers, are under pressure to increase the price of their equipment because of prohibitively high tariff on the import of unfinished cork.

While the tariff on already-finished cork is 6 percent, unfinished cork is subject to a 14 percent tariff. It just does not make good sense to charge a significantly higher levy on an unfinished product that is imported and then handcrafted by American workers.

This inconsistency must end by leveling the difference between the two tariffs. The reduction will enable American workers to continue manufacturing custom-made fishing rod grips, keep the price of all fishing poles down, and bring a measure of common sense to this portion of our tariff law. Once resolved, domestic businesses will be able to finish fly rods here, leading to an increasingly competitive place in the market for American goods. With this change Montana's small businesses will benefit as will our overall economy in the state.

I am pleased that some of my colleagues in the House have decided to assist in this effort. I truly appreciate the work of Representative SIMMONS of Connecticut, who is leading this legislation in the House. He has already signed on 17 co-sponsors to this legislation at last count. His assistance has been invaluable, and I look forward to working with him as this legislation moves forward.

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. 931

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

SECTION 1. CERTAIN ARTICLES OF NATURAL CORK.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.45.03	Articles of natural cork (provided for in subheading 4503.90.60) ..	6%	No change	No change	On or before 12/31/2008 ''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. KENNEDY (for himself, Mr. DURBIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. HARKIN, Mr. DODD, Mr. LAUTENBERG, Mr. CORZINE, Mr. AKAKA, Mrs. BOXER, Mr. FEINGOLD, Mr. SCHUMER, and Mr. DAYTON):

S. 932. A bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, the ability of American families to live the American dream is becoming harder and harder. With each passing month, it's more difficult for families to earn a living—to pay the mortgage and the doctor bills, and send their sons and daughters to college.

In the Bush economy, families are worried about their job security, their income, and the cost of living. They're working longer and harder and finding it more and more difficult to balance their work and their family responsibilities.

Most Americans assume that paid sick days are a right. They're not. Half of all American workers are not guaranteed the right to time off when they're ill, without losing their pay, or even their job.

In 1993, Congress and the administration guaranteed unpaid leave for millions of working men and women to deal with serious medical problems.

It's time to build on this success, and ensure that millions of workers can also take time off when they need an annual check-up, when their children are sick with a cold, and when their ailing elderly parents need to be taken to the doctor.

Hard-working men and women deserve better. That's why Congresswoman DELAURO and I are introducing legislation to guarantee workers 7 days of paid sick leave a year to care for their own medical needs and those of their family members. This proposal covers workers at all businesses, except small businesses with fewer than 15 employees.

This is a family issue. When my son was diagnosed with cancer in his leg as a child, and had to undergo surgery, I was able to take the time I needed to be there for him. But year after year, countless employees have to choose between the job they need and the family they love. Families deserve the flexibility to care for each other when they get sick.

It's an economic issue. Paid sick days actually save businesses money through reduced turnover and increased productivity. A recent study by Cornell University examined the problem of employees coming to work despite medical problems. They found it costs business $180 billion annually in lost productivity.

It's also a public health issue. Too often, employees come to work sick and co-workers and many others can easily be infected. Recently, a court ruled that because of the lack of paid sick leave, a stomach virus in one worker infected 600 guests and 300 employees at the Reno Hilton Hotel in Nevada.

Paid sick days will help prevent the spread of illnesses like that. Taking time off to treat illnesses and injuries will save health costs in the long run. It will make an important difference for insurers, for hospitals, and for the health of millions of Americans.

It's long past time to provide paid sick days for workers. This bill is a first step to guarantee that every worker who needs sick leave has it and can afford to take it.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 126—HONORING FRED T. KOREMATSU FOR HIS LOYALTY AND PATRIOTISM TO THE UNITED STATES AND EXPRESSING CONDOLENCES TO HIS FAMILY, FRIENDS, AND SUPPORTERS ON HIS DEATH

Mr. DURBIN (for himself, Mr. INOUYE, and Mr. STEVENS) submitted the following resolution which was considered and agreed to:

S. RES. 126

Whereas on January 30, 1919, Fred Toyosaburo Korematsu was born in Oakland, California, to Japanese immigrants;

Whereas Fred Korematsu graduated from Oakland High School and tried on 2 occasions to enlist in the United States Army but was not accepted due to a physical disability;

Whereas on December 7, 1941, Japan attacked the United States military base at Pearl Harbor, Hawaii, forcing the United States to enter World War II against Japan, Germany, and Italy;

Whereas on February 19, 1942, President Franklin D. Roosevelt signed Executive Order number 9066 (42 Fed. Reg. 1563) as ''protection against espionage and against sabotage to national defense'', which authorized the designation of ''military areas . . . from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restriction the . . . Military Commander may impose in his discretion'';

Whereas the United States Army issued Civilian Exclusion Order Number 34, directing that after May 9, 1942, all persons of Japanese ancestry were to be removed from designated areas of the West Coast because they were considered to be a security threat;

Whereas in response to that Civilian Exclusion Order, Fred Korematsu's family reported to Tanforan, a former racetrack in the San Francisco area that was used as 1 of 15 temporary detention centers, before being sent to an internment camp in Topaz, Utah;

Whereas more than 120,000 Japanese Americans were similarly detained in 10 permanent War Relocation Authority camps located in isolated desert areas of the States of Arizona, Arkansas, California, Colorado, Idaho, Utah, and Wyoming, without any charges brought or due process accorded;

Whereas Fred Korematsu, then 22 years old and working as a shipyard welder in Oakland, California, refused to join his family in reporting to Tanforan, based on his belief that he was a loyal American and not a security threat;

Whereas on May 30, 1942, Fred Korematsu was arrested and jailed for remaining in a military area, tried in United States district court, found guilty of violating Civilian Exclusion Order Number 34, and sentenced to 5 years of probation;

Whereas Fred Korematsu unsuccessfully challenged that Civilian Exclusion Order as it applied to him, and appealed the decision of the district court to the United States