Social Security Act to ensure funding for grants to promote responsible fatherhood and strengthen low-income families, and for other purposes.

S. 1318

At the request of Mr. GREGG, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1318, a bill to prohibit the use of stimulus funds for signage indicating that a project is being carried out using those funds.

S. 1319

At the request of Mr. COBURN, the names of the Senator from Kentucky (Mr. MCCONNELL), the Senator from Kentucky (Mr. BUNNING) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 1319, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1344

At the request of Mr. VITTER, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of S. 1344, a bill to temporarily protect the solvency of the Highway Trust Fund.

S. 1345

At the request of Mr. REED, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1345, a bill to aid and support pediatric involvement in reading and education.

S.J. RES. 17

At the request of Mr. MCCONNELL, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

S. CON. RES. 11

At the request of Ms. COLLINS, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. Con. Res. 11, a concurrent resolution condemning all forms of anti-Semitism and reaffirming the support of Congress for the mandate of the Special Envoy to Monitor and Combat Anti-Semitism, and for other purposes.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 199

At the request of Mr. KOHL, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Arkansas (Mr. PRYOR), the Senator from New York (Mrs. GILLIBRAND), the Senator from Maine (Ms. COLLINS), the Senator from Florida (Mr. NELSON) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. Res. 199, a resolution recognizing the contributions of the recreational boating community and the boating industry to the continuing prosperity of the United States.

At the request of Mr. BURR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 199, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1349. A bill to amend the Internal Revenue Code of 1986 to simplify the deduction for use of a portion of a residence as a home office by providing an optional standard home office deduction; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I rise to reintroduce legislation to offer a drastically simplified alternative for home-based businesses to benefit from the home office tax deduction. The U.S. Small Business Administration's, SBA's, Office of Advocacy designated reforming the home office tax deduction as one of its top 10 regulatory review and reform initiatives for 2008. By establishing an optional home office deduction, the Home Office Tax Deduction Simplification and Improvement Act of 2009 would take a strong step toward making our tax laws easier to understand. I would like to thank Senator CONRAD for joining me to introduce this critical bill here in the Senate and Representative GONZALEZ for introducing identical legislation in the House of Representatives.

As Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I continually hear from small enterprises across Maine and this nation about the necessity of tax relief and reform. Despite the fact that small firms are our economy's real job creators, the current tax system places an entirely unreasonable burden on them as they struggle to satisfy their tax obligations.

Notably, according to the Office of Management and Budget's Office of Information and Regulatory Affairs, the American public spends approximately nine billion hours each year to complete government-mandated forms and paperwork. A staggering 80 percent of this time is consumed by completing tax forms. What is even more troubling is that companies that employ fewer than 20 employees spend nearly $1,304 per employee in tax compliance costs, an amount that is nearly 67 percent more than larger firms.

Turning to the legislation we are reintroducing today, the Internal Revenue Code currently offers qualified individuals a home office tax deduction if they use a portion of their home as a principal place of business or as a space to meet with their patients or clients. That said, although recent research from the SBA indicates that roughly 53 percent of America's small businesses are home-based, few of these firms take advantage of the home office tax deduction. The reason is simple: reporting the deduction is complicated.

A 2006 survey conducted by the National Federation of Independent Business Research Foundation found that approximately 33 percent of small-employer taxpayers try to comprehend the tax rules governing the home office tax deduction, but only about half of those respondents believe that they actually have a good understanding of the rules. As Dewey Martin, a Certified Public Accountant from my home State of Maine, so aptly said in testimony last year before the Senate Finance Committee, ''Many small business owners avoid the deduction because of the complications and the fear of a potential audit.''

With a morass of paperwork attributable to the home office deduction, the time-consuming process of navigating the tangled web of rules and regulations makes it unsurprising that so many small business owners forego the home office deduction. So to encourage the use of the home office tax deduction, the bill we are introducing today would establish an optional, easy-to-use incentive.

Specifically, our bill would direct the Secretary of the Treasury to establish a method for determining a deduction that consists of multiplying an applicable standard rate by the square footage of the type of property being used as a home office. The proposal would also require the IRS to separately state the amounts allocated to several types of expenses in order to reduce the burden on the taxpayer. It is vital that the IRS clearly identify the amounts of the deduction devoted to real estate taxes, mortgage interest, and depreciation so that taxpayers do not duplicate them on Schedule A. Finally, the bill makes two changes designed to ease the administration of the deduction: First, to reflect an economy in which many business owners conduct business or consult with customers through the Internet or over the phone versus face-to-face, our legislation takes these entrepreneurs into account by allowing the home office deduction to be taken if the taxpayer uses the home to meet or deal with clients regardless of whether the clients are physically present. Second, our bill would allow for de minimis use of business space for personal activities so that taxpayers would not lose their ability to claim the deduction if they make a personal call or pay a bill online.

I would be remiss not to note that the bill we are introducing today is the result of the dedicated efforts of various groups and organizations, which have worked with Senator CONRAD and me on a consensus approach to improve the current home office tax deduction. In particular, it is significant to note that the IRS Taxpayer Advocate Service strongly backs this bill. In fact, the National Taxpayer Advocate, Nina E. Olson, sent my office the following statement regarding our legislation:

''In my 2007 Annual Report to Congress, I made a similar proposal to simplify the home office business deduction. I am pleased that Senator SNOWE and CONRAD's proposed bill reflects the gist of my legislative recommendation. Reducing the burdensome substantiation requirements for employees and self-employed taxpayers who incur modest home office costs would make the home office business deduction simpler and more accessible to them.''

Our bill also received an endorsement from the National Federation of Independent Business. Dan Danner, the organization's Executive Director, said the following: ''Currently only a small percentage of home-based businesses in the U.S. take advantage of the home-office deduction because calculating the deduction is unnecessarily complicated. NFIB small business owners have advocated for a simpler, standard home-office deduction for years. The Snowe-Conrad legislation gives home-based businesses the option to deduct a legitimate business expense with minimum hassle. This commonsense change to the tax code will reduce tax complexity and help many home-based businesses take advantage of this deduction.'' Additionally, the SBA's Office of Advocacy added: ''The SBA Office of Advocacy reviewed the legislation and supports it.''

In closing, according to the SBA's Office of Advocacy, America's home-based sole proprietors generate $102 billion in revenue annually. With this in mind, it is absolutely critical to endow these small firms with as much relief from burdensome tax constraints as possible so that they can focus their efforts on developing the products and services of the future, as well as creating new jobs. The confusion over the home office business tax deduction, in my estimation, can be easily solved by passing this legislation. I urge all Senators to consider the benefits this bill will provide to thousands of small business owners, and I look forward to working with my colleagues to enact it in a timely manner.

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

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

S. 1349

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 ''Home Office Tax Deduction Simplification and Improvement Act of 2009''.

SEC. 2. OPTIONAL STANDARD HOME OFFICE DEDUCTION.

(a) IN GENERAL.—Subsection (c) of section 280A of the Internal Revenue Code of 1986 (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by adding at the end the following new paragraph:

''(7) ELECTION OF STANDARD HOME OFFICE DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is allowed a deduction for the use of a portion of a dwelling unit as a business by reason of paragraph (1), (2), or (4), notwithstanding the limitations of paragraph (5), if such individual elects the application of this paragraph for the taxable year with respect to such dwelling unit, such individual shall be allowed a deduction equal to the standard home office deduction for the taxable year in lieu of the deductions otherwise allowable under this chapter for such taxable year by reason of paragraph (1), (2), or (4).

''(B) STANDARD HOME OFFICE DEDUCTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the standard home office deduction is an amount equal to the product of—

''(I) the applicable home office standard rate, and

''(II) the square footage of the portion of the dwelling unit to which paragraph (1), (2), or (4) applies.

''(ii) APPLICABLE HOME OFFICE STANDARD RATE.—For purposes of this subparagraph, the term 'applicable home office standard rate' means the rate applicable to the taxpayer's category of business, as determined and published by the Secretary for the 3 categories of businesses described in paragraphs (1), (2), and (4) for the taxable year.

''(iii) MAXIMUM SQUARE FOOTAGE TAKEN INTO ACCOUNT.—The Secretary shall determine and publish annually the maximum square footage that may be taken into account under clause (i)(II) for each of the 3 categories of businesses described in paragraphs (1), (2), and (4) for the taxable year.

''(C) EFFECT OF ELECTION.—

''(i) GENERAL RULE.—Except as provided in clause (ii), any election under this paragraph, once made by the taxpayer with respect to any dwelling unit, shall continue to apply with respect to such dwelling unit for each succeeding taxable year.

''(ii) ONE-TIME ELECTION PER DWELLING UNIT.—A taxpayer who elects the application of this paragraph in a taxable year with respect to any dwelling unit may revoke such application in a subsequent taxable year. After so revoking, the taxpayer may not elect the application of this paragraph with respect to such dwelling unit in any subsequent taxable year.

''(D) DENIAL OF DOUBLE BENEFIT.—

''(i) IN GENERAL.—Except as provided in clause (ii), in the case of a taxpayer who elects the application of this paragraph for the taxable year, no other deduction or credit shall be allowed under this subtitle for such taxable year for any amount attributable to the portion of a dwelling unit taken into account under this paragraph.

''(ii) EXCEPTION FOR DISASTER LOSSES.—A taxpayer who elects the application of this paragraph in any taxable year may take into account any disaster loss described in section 165(i) as a loss under section 165 for the applicable taxable year, in addition to the standard home office deduction under this paragraph for such taxable year.

''(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.''.

(b) MODIFICATION OF HOME OFFICE BUSINESS USE RULES.—

(1) PLACE OF MEETING.—Subparagraph (B) of section 280A(c)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) as a place of business which is used by the taxpayer in meeting or dealing with patients, clients, or customers in the normal course of the taxpayer's trade or business, or''.

(2) DE MINIMIS PERSONAL USE.—Paragraph (1) of section 280A(c) of such Code is amended by striking ''for the convenience of his employer'' and inserting ''for the convenience of such employee's employer. A portion of a dwelling unit shall not fail to be deemed as exclusively used for business for purposes of this paragraph solely because a de minimis amount of non-business activity may be carried out in such portion''.

(c) REPORTING OF EXPENSES RELATING TO HOME OFFICE DEDUCTION.—Within 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall ensure that all forms and schedules used to calculate or report itemized deductions and profits or losses from business or farming state separately amounts attributable to real estate taxes, mortgage interest, and depreciation for purposes of the deductions allowable under paragraphs (1), (2), (4), and (7) of section 280A(c) of the Internal Revenue Code of 1986.

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

By Mr. PRYOR (for himself and Mr. INHOFE):

S. 1350. A bill to encourage increased production of natural gas and liquified petroleum gas vehicles and to provide tax incentives for natural gas and liquefied petroleum gas vehicle infrastructure, and for other purposes; to the Committee on Finance.

Mr. PRYOR. Mr. President, I rise today along with Senator INHOFE to introduce the Fueling America Act of 2009 which will provide incentives for the production and use of natural gas and propane vehicles throughout the United States.

In response to high gasoline and diesel fuel prices, consumers have become more interested in alternative fuel vehicles that run on natural gas or propane. These vehicles and aftermarket conversion kits have been available for years, but they have been used mostly in government and private fleets. Very few have been purchased and used by consumers. Larger natural gas and propone vehicles are often used for clean-burning transit buses and delivery trucks.

Natural gas and propane are clean, cost-effective alternative fuel choices. Two important potential benefits of increasing the supply of natural gas and propane vehicles are energy security and reduced pollutant and greenhouse gas emissions than comparable gasoline or diesel vehicles. Compared with conventional vehicles, natural gas vehicles produce only 5 to 10 percent of allowable emissions, which means far less greenhouse gases.

Thanks to new drilling technologies that are unlocking substantial amounts of natural gas from shale rocks, the nation's estimated gas reserves have surged by 35 percent, according to a study released last week. The report by the Potential Gas Committee, the authority on gas supplies, shows the United States holds far larger reserves than previously thought. Estimated natural gas reserves rose to 2,074 trillion cubic feet in 2008, from 1,532 trillion cubic feet in 2006, when the last report was issued.

Increasing the production of natural gas and propane vehicles for both individual and public transportation will provide a huge boost for Arkansas'

economy and job growth. Arkansas, with its abundant natural gas resources, has the capability to be a leader in the alternative energy sector and the fight to reduce our country's dependence on foreign oil. Developing the natural gas vehicle and propane industry will help Arkansas' natural gas producers grow and thrive, boosting the State's economy. In Arkansas, the Fayetteville Shale is proving to be a major new find of domestic natural gas. The Center for Business and Economic Research at the University of Arkansas estimates that this shale play will result in about $17.9 billion in economic stimulus and 11,000 jobs for the State.

Natural gas and propane vehicles are more fuel efficient and environmentally friendly than their gasoline counterparts, but right now their high cost and lack of infrastructure, such as refueling stations, make them an unrealistic option for the average American. Since the number of natural gas refueling stations is limited only about 400 to 500 publicly available nationwide, compared to roughly 120,000 retail gasoline stations the purchaser of a new natural gas vehicle would likely also install a home refueling system. According to NGVAmerica, a typical home system costs roughly $4,500 plus installation.

The Fueling America Act of 2009 will establish a research, development and demonstration program at the Department of Energy to improve cleaner, more efficient natural gas and propane vehicle engines, on-board storage systems, and fueling station infrastructure; require the GSA to report on whether the Federal fleet should increase the number of natural gas and propane vehicles; extend the Clean School Bus Program through 2014; extend tax credits for natural gas and propane refueling property; and extend and increase the consumer tax credit for the purchase of natural gas, propane and bi-fuel vehicles.

The Fueling America Act will make it easier and more practical for people to buy these clean, green vehicles. This bill will provide incentives for consumers and industry to purchase new natural gas and propane vehicles, as well as aftermarket conversion kits. At the same time, America can become less dependent on foreign oil, utilize our ample domestic natural gas resources, and create a cleaner environment.

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

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

S. 1350

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Fueling America Act of 2009''.

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

Sec. 1. Short title; table of contents.

TITLE I—INCREASED PRODUCTION OF NATURAL GAS AND LIQUEFIED PETROLEUM GAS VEHICLES

Sec. 101. Definitions.

Sec. 102. Natural gas and liquefied petroleum gas vehicle research, development, and demonstration projects.

Sec. 103. Study of increasing natural gas and liquefied petroleum gas vehicles in Federal fleet.

Sec. 104. Clean school bus program.

TITLE II—TAX INCENTIVES

Sec. 201. Credit for natural gas and liquefied petroleum gas refueling property.

Sec. 202. Credit for purchase of vehicles fueled by natural gas or liquefied petroleum gas.

TITLE I—INCREASED PRODUCTION OF NATURAL GAS AND LIQUEFIED PETROLEUM GAS VEHICLES

SEC. 101. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) NATURAL GAS.—The term ''natural gas'' means—

(A) compressed natural gas;

(B) liquefied natural gas;

(C) biomethane; and

(D) mixtures of—

(i) hydrogen; and

(ii) methane, biomethane, compressed natural gas, or liquefied natural gas.

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

SEC. 102. NATURAL GAS AND LIQUEFIED PETROLEUM GAS VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary, in coordination with the Administrator, shall conduct a program of natural gas and liquefied petroleum gas vehicle research, development, and demonstration.

(b) PURPOSES.—The purposes of the program conducted under this section are to focus on—

(1) the continued improvement and development of new, cleaner, more efficient light-duty, medium-duty, and heavy-duty natural gas and liquefied petroleum gas vehicle engines;

(2) the integration of those engines into light-duty, medium-duty, and heavy-duty natural gas and liquefied petroleum gas vehicles for onroad and offroad applications;

(3) expanding product availability by assisting manufacturers with the certification of the engines or vehicles described in paragraph (1) or (2) to comply with Federal or California certification requirements and in-use emission standards;

(4) the demonstration and proper operation and use of the vehicles described in paragraph (2) under all operating conditions;

(5) the development and improvement of nationally recognized codes and standards for the continued safe operation of vehicles described in paragraph (2) and the components of the vehicles;

(6) improvement in the reliability and efficiency of natural gas and liquefied petroleum gas fueling station infrastructure;

(7) the certification of natural gas and liquefied petroleum gas fueling station infrastructure to nationally recognized and industry safety standards;

(8) the improvement in the reliability and efficiency of onboard natural gas and liquefied petroleum gas fuel storage systems;

(9) the development of new natural gas and liquefied petroleum gas fuel storage materials;

(10) the certification of onboard natural gas and liquefied petroleum gas fuel storage systems to nationally recognized and industry safety standards; and

(11) the use of natural gas and liquefied petroleum gas engines in hybrid vehicles.

(c) CERTIFICATION OF AFTERMARKET CONVERSION SYSTEMS.—

(1) IN GENERAL.—The Secretary shall coordinate with the Administrator on issues related to streamlining the certification of natural gas and liquefied petroleum gas aftermarket conversion systems to comply with appropriate Federal certification requirements and in-use emission standards.

(2) STREAMLINED CERTIFICATION.—For purposes of paragraph (1), streamlined certification shall include providing aftermarket conversion system manufacturers the option to continue to sell and install systems on engines and test groups for which the manufacturers have previously received a certificate of conformity without having to request a new certificate in future years.

(d) COOPERATION AND COORDINATION WITH INDUSTRY.—In developing and carrying out the program under this section, the Secretary shall coordinate with the natural gas and liquefied petroleum gas vehicle industry to ensure, to the maximum extent practicable, cooperation between the public and the private sector.

(e) ADMINISTRATION.—The program under this section shall be conducted in accordance with sections 3001 and 3002 of the Energy Policy Act of 1992 (42 U.S.C. 13541, 13542).

(f) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the implementation of this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $30,000,000 for each of fiscal years 2010 through 2014.

SEC. 103. STUDY OF INCREASING NATURAL GAS AND LIQUEFIED PETROLEUM GAS VEHICLES IN FEDERAL FLEET.

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services, in consultation with the Administrator, shall—

(1) conduct a study on whether or not the Federal fleet should increase the number of light-duty, medium-duty, and heavy-duty natural gas and liquefied petroleum gas vehicles in the fleet;

(2) assess the barriers to increasing the number of natural gas and liquefied petroleum gas vehicles in the fleet;

(3) assess the potential for maximizing the use of natural gas and liquefied petroleum gas vehicles in the fleet; and

(4) submit to the appropriate committees of Congress a report on the results of the study.

SEC. 104. CLEAN SCHOOL BUS PROGRAM.

(a) IN GENERAL.—Section 6015 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (42 U.S.C. 16091a) is amended—

(1) in subsection (b)(5)—

(A) in subparagraph (A)—

(i) in the subparagraph heading, by striking ''50'' and inserting ''65''; and

(ii) in the matter preceding clause (i), by striking ''one-half'' and inserting ''65 percent'';

(iii) in clause (i)(II), by striking ''or'' after the semicolon at the end;

(iv) in clause (ii), by striking the period at the end and inserting as semicolon; and

(v) by adding at the end the following:

''(iii) clean school buses with engines manufactured in model year 2010, 2011, 2012, 2013, or 2014 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate

matter to be applicable for school buses manufactured in that model year; or

''(iv) clean school buses with engines only fueled by compressed natural gas, liquefied natural gas, or liquefied petroleum gas, except that school buses described in this clause may be eligible for a grant that is equal to an additional 25 percent of the acquisition costs of the school buses (including fueling infrastructure).''; and

(B) in subparagraph (B)—

(i) in the subparagraph heading, by striking ''25''and inserting ''50''; and

(ii) in the matter preceding clause (i), by striking ''one-fourth'' and inserting ''50 percent''; and

(2) in subsection (d)—

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

(B) in paragraph (2), by striking ''2008, 2009, and 2010.'' and inserting ''2008 and 2009; and''; and

(C) by adding at the end the following:

''(3) $75,000,000 for each of fiscal years 2010 through 2014.''.

(b) TECHNICAL CORRECTION.—Section 741 of the Energy Policy Act of 2005 (42 U.S.C. 16091) is repealed.

TITLE II—TAX INCENTIVES

SEC. 201. CREDIT FOR NATURAL GAS AND LIQUEFIED PETROLEUM GAS REFUELING PROPERTY.

(a) INCREASE IN CREDIT PERCENTAGE FOR NATURAL GAS AND LIQUEFIED PETROLEUM GAS REFUELING PROPERTY.—Subsection (e) of section 30C of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR QUALIFIED NATURAL GAS VEHICLE REFUELING PROPERTY AND QUALIFIED LIQUEFIED PETROLEUM GAS VEHICLE REFUELING PROPERTY.—

''(A) IN GENERAL.—In the case of any qualified natural gas vehicle refueling property and any qualified liquefied petroleum gas vehicle refueling property to which paragraph (6) does not apply—

''(i) subsection (a) shall be applied by substituting '50 percent' for '30 percent',

''(ii) subsection (b)(1) shall be applied by substituting '$50,000' for '$30,000', and

''(iii) subsection (b)(2) shall be applied by substituting '$2,000' for '$1,000'.

''(B) QUALIFIED NATURAL GAS VEHICLE REFUELING PROPERTY.—For purposes of this paragraph, the term 'qualified natural gas vehicle refueling property' has the same meaning as the term 'qualified alternative fuel vehicle refueling property' would have under subsection (c) if only natural gas, compressed natural gas, and liquefied natural gas were treated as clean-burning fuels for purposes of section 179A(d).

''(C) QUALIFIED LIQUEFIED PETROLEUM GAS VEHICLE REFUELING PROPERTY.—For purposes of this paragraph, the term 'qualified liquefied petroleum gas vehicle refueling property' has the same meaning as the term 'qualified alternative fuel vehicle refueling property' would have under subsection (c) if only liquefied petroleum gas were treated as a clean-burning fuel for purposes of section 179A(d).''.

(b) EXTENSION OF CREDIT.—Subsection (g) of section 30C of the Internal Revenue Code of 1986 is amended to read as follows:

''(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2014.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

SEC. 202. CREDIT FOR PURCHASE OF VEHICLES FUELED BY NATURAL GAS OR LIQUEFIED PETROLEUM GAS.

(a) IN GENERAL.—Subsection (e) of section 30B of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) HIGHER INCREMENTAL COST LIMITS FOR NATURAL GAS VEHICLES AND LIQUEFIED PETROLEUM GAS VEHICLES.—

''(A) IN GENERAL.—In the case of any eligible natural gas motor vehicle and any eligible liquefied petroleum gas motor vehicle, paragraph (3) shall be applied by multiplying each of the dollar amounts contained in such paragraph by 2.

''(B) ELIGIBLE NATURAL GAS MOTOR VEHICLE.—For purposes of this paragraph, the term 'eligible natural gas motor vehicle' means (except as provided in clause (ii)) a new qualified alternative fuel motor vehicle or aftermarket conversion system the final assembly of which is in the United States and that—

''(i) is only capable of operating on compressed natural gas or liquefied natural gas, or

''(ii) is capable of operating for more than 175 miles on compressed natural gas or liquefied natural gas and is capable of operating on gasoline or diesel fuel.

''(C) ELIGIBLE LIQUEFIED PETROLEUM GAS MOTOR VEHICLE.—For purposes of this paragraph, the term 'eligible liquefied petroleum gas motor vehicle' means (except as provided in clause (ii)) a new qualified alternative fuel motor vehicle or aftermarket conversion system the final assembly of which is in the United States and that—

''(i) is only capable of operating on liquefied petroleum gas, or

''(ii) is capable of operating for more than 175 miles on liquefied petroleum gas and is capable of operating on gasoline or diesel fuel.

''(D) AFTERMARKET CONVERSION SYSTEM.—For purposes of this paragraph, the term 'aftermarket conversion system' means property that converts a vehicle that is not described in this paragraph into an eligible natural gas motor vehicle (for purposes of subparagraph (B)) or an eligible liquefied petroleum gas motor vehicle (for purposes of subparagraph (C)).''.

(b) EXTENSION OF CREDIT FOR NATURAL GAS AND LIQUEFIED PETROLEUM GAS VEHICLES.—Paragraph (4) of section 30B(k) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting '', and'',

(3) by striking ''(as described in subsection (e))'' in paragraph (4) and inserting ''(as described in paragraph (4) or (5) of subsection (e))'', and

(4) by adding at the end the following new paragraph:

''(5) in the case of a new qualified alternative fuel vehicle described in subsection (e)(6), December 31, 2014.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles placed in service after December 31, 2008, in taxable years ending after such date.

By Mr. DODD (for himself, Ms. COLLINS, Mr. REED, Mr. LIEBERMAN, Mr. CARDIN, and Mr. WHITEHOUSE):

S. 1352. A bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to join my fellow New Englander, Senator SUSAN COLLINS of Maine, in introducing the Lyme and Tick-Borne Disease Prevention, Education, and Research Act of 2009.

As families in New England look forward to outdoor fun this summer—and as families around the country look forward to vacationing in New England—they might not be thinking about the risks and dangers associated with hiking, camping, and other outdoor activities.

But every year, tens of thousands of Americans working or playing outdoors are bitten by ticks.

For most, a tick bite is nothing more than a minor annoyance. But approximately 20,000 Americans contract Lyme disease each year, and the numbers are rising. And because Lyme disease is difficult to diagnose, many experts believe the true number of cases each year could be as much as 10 or 12 times the reported number. Worst of all, it is our children who are most at risk.

Lyme disease was first described in my home State of Connecticut, and we still have the unfortunate distinction of being ten times more likely to contract Lyme disease than the rest of the Nation. But the Centers for Disease Control and Prevention has received reports of new cases from 46 States and the District of Columbia. According to some estimates, Lyme disease costs our Nation more than $2 billion in medical costs each year.

Lyme disease can affect every part of the body. Tens of thousands of Americans suffer through pain, severe fatigue, sleep disturbance, and cognitive difficulties, among many other symptoms. Some of these victims are able to lead normal lives, finding ways to cope with the disease. But many more find the disease significantly disrupts their lives, preventing them from everyday experiences that we all take for granted.

The legislation we offer today directs the Secretary of Health and Human Services to establish a Tick-Borne Diseases Advisory Committee at HHS to coordinate efforts and improve communication between the federal government, medical experts, physicians, and the public.

It will improve diagnostic efforts, establish a national clearinghouse for research and reporting, and require that scientific viewpoints on this often-frustrating disease be disseminated in a balanced way.

It contains tools for researchers, physicians, and the public to improve awareness and treatment.

Finally, it requires the Secretary to prepare and submit to Congress an annual report tracking developments related to Lyme disease, its spread, its treatment, and its impact on families in Connecticut and around the country.

Lyme disease is a frustrating puzzle for physicians, a burden on our Nation's health care system, and most importantly, a threat to American families enjoying our beautiful outdoor spaces.

I want to specifically mention and thank the organization from my home State of Connecticut that worked closely with me to develop this legislation, Time for Lyme. The co-presidents and founders of Time for Lyme, Diane Blanchard and Debbie Siciliano, are tireless advocates for the patients struggling with chronic Lyme disease. This is not their job. They are parents whose children suffer from this disease. They work to find time in their busy schedules to make a difference. This is their mission and they give me hope that we can get this done.

I also want to thank my good friend, Senator COLLINS, for her leadership on this issue. I want to thank Senators REED, LIEBERMAN, CARDIN, and WHITEHOUSE for their support for this bill. Whether it is fishing on the Housatonic River or exploring Gillette Castle State Park near my home in East Haddam, Connecticut families enjoy a variety of outdoor activities.

But Lyme disease remains a persistent and dangerous risk for my constituents, for Senator COLLINS's constituents, and for those across the country. With leadership from this body and better coordination from federal agencies, we can more effectively combat this disease, better protect our children and families, and make our outdoor spaces safer places to work and play.

I urge my colleagues to join Senator COLLINS and myself in support of this legislation and thank them kindly for their consideration.

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

S. 1353. A bill to amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1986 to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce legislation that will correct an inequality in the Department of Justice's Public Safety Officers Benefits, PSOB, Program by extending benefits to non-profit EMS providers who die or are disabled in the line of duty. I am pleased to be joined in this effort by Senator SANDERS.

Vermonters were deeply saddened earlier this week when we received word that veteran EMT specialist Dale Long died in a tragic, on-duty accident in Bennington. Dale Long had a superb 25-year career as a Vermont EMT, and I extend our deepest condolences to his family, to the Bennington Rescue Squad, and to the entire Vermont EMT community.

First responders nationwide literally put their lives at risk every day for the people of their communities. They represent the best of our nation's dedicated service to others, and Dale Long was a solid example of that tradition. He was Bennington Rescue Squad's 2008 EMT of the Year, and a 2009 recipient of the American Ambulance Association's Star of Life Award. I had the pleasure of meeting Dale just last month when he visited my office during the Star of Life festivities.

This tragedy highlights a major shortcoming in the current PSOB program, which Congress established over 30 years ago to provide assistance to police, fire and medics who lose their lives or are disabled in the line of duty. The benefit, though, only applies to public safety officers employed by a federal, state, and local government entity. With many communities around the United States choosing to have their emergency medical services provided by non-profit agencies, medics working for non-profit services unfortunately are not eligible for benefits under the PSOB program.

Non-profit public safety officers provide identical services to governmental officers and do so daily in the same dangerous environments. With a renewed appreciation for the important community service of first responders since the national tragedy of September 11, 2001, more people are answering the call to serve their communities. At the same time, more rescue workers are falling through the cracks of the PSOB program.

The Dale Long Emergency Medical Service Provider Protection Act would correct this inequality by extending the PSOB program to cover non-profit EMS officers who provide emergency medical and ground or air ambulance service. These emergency professionals protect and promote the public good of the communities they serve, and we should not unfairly penalize them and their families simply because they work or volunteer for a non-profit organization.

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

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

S. 1353

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 ''Dale Long Emergency Medical Service Providers Protection Act''.

SEC. 2. BENEFITS FOR CERTAIN NONPROFIT EMERGENCY MEDICAL SERVICE PROVIDERS.

Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) in paragraph (7), by striking ''public employee member of a rescue squad or ambulance crew'' and inserting ''employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

''(A) is a public agency; or

''(B) is (or is a part of) a nonprofit entity serving the public that is officially authorized or licensed—

''(i) to engage in rescue activity or to provide emergency medical services; and

''(ii) to respond to an emergency situation;''; and

(2) in paragraph (9)—

(A) in subparagraph (A), by striking ''as a chaplain'' and all that follows through the semicolon, and inserting ''or as a chaplain;'';

(B) in subparagraph (B)(ii), by striking ''or'' after the semicolon;

(C) in subparagraph (C)(ii), by striking the period and inserting ''; or''; and

(D) by adding at the end the following:

''(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity, is engaging in rescue activity or in the provision of emergency medical services.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2(1) of this Act shall apply only to injuries sustained on or after January 1, 2009.

By Mr. BARRASSO (for himself and Mr. WYDEN):

S. 1355. A bill to amend title XVIII of the Social Security Act to improve access to health care for individuals residing in underserved rural areas and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, along with my friend, Senator BARRASSO, I am introducing legislation to keep rural America from becoming a health care sacrifice zone. Our legislation, the Rural Health Clinic Patient Access and Improvement Act, will make it more financially attractive for doctors and other providers to treat patients in rural areas. Both Senator BARRASSO and I have heard from the folks back home about how hard it is to get doctors and mid-level practitioners in rural areas. My constituents have had to travel hours to get treatment when they need it. This bill takes major strides to ensure access to health care by building on the successes of the rural health clinic program. When it comes to health care, rural residents should not have to accept second-class status.

As the Senate takes up comprehensive healthcare reform, this Congress must not lose focus on the health needs of folks in rural areas. Too many Oregonians cannot get the kind of affordable and comprehensive coverage or access to care their Members of Congress receive. In addition, many patients in rural Oregon, even those with good health benefits, do not have access to providers or have to travel long distances to get medical care.

Meanwhile, providers lack incentives to go to—or stay in—rural areas. It is a lot more lucrative for them to work in big cities where they can work in state-of-the art facilities and earn top dollar. According to the Oregon State Office of Rural Health, a major obstacle facing Oregon's rural health clinics is the severe shortage of health care providers willing or able to work in a rural area. One out of three Oregon rural health clinics was recruiting in 2008.

That is why Senator BARRASSO and I come here to introduce the Rural Health Clinic Patient Access and Improvement Act. Simply put, our bill would help improve access for patients in rural areas, while increasing reimbursement rates and giving incentives to providers in rural areas.

The Rural Health Clinic Patient Access and Improvement Act increases the all-inclusive Medicare payment rate for rural health clinics by more than 20 percent per visit from an average of $76 to $92. This bill would provide an additional $2 bonus for rural health clinics that participate in a quality improvement program. Quality of care should be a focus for all providers.

The bill will allow for better collaboration between community health centers and rural health clinics. It also creates a 5-state demonstration project to recruit and retain providers in rural communities by subsidizing a portion of the provider's medical liability costs if they practice in a rural health clinic. These reforms will help ensure rural residents have access to the same level of quality care as those in other parts of the country.

This bill builds upon the success of Oregon's 54 rural health clinics that serve 26 out of 36 counties across the state. These rural health clinics help to ensure access to primary care for the underserved elderly and low-income populations. Ninety-eight percent of Oregon's rural health clinics are willing to see Medicare and Medicaid patients as well as patients with no insurance. Not only are they willing to see these patients, but 96 percent are currently accepting new patients. Many rural residents—whether they are uninsured, publically insured or have private insurance—would have nowhere to go to receive primary care without rural health clinics.

When it comes to health care, people want to go to a provider they know and trust. One of the reasons rural health clinics have been so successful is that they have become an integral part of their communities. A great example of this is Gilliam County Medical Center. Gilliam County hosted a succession of short-term physicians placed in the community through the National Health Service Corps. In the 1970s, the community, in conjunction with the State, sought a more permanent, stable health care provider situation. The Oregon legislature appropriated $20,000 as seed money to attract a team of health professionals to the community and the residents of Gilliam County created the South Gilliam Health District to support Gilliam County Medical Center, a certified rural health clinic.

Two physician assistants, David Jones and Dennis Bruneau who were on the faculty at the University of Washington PA program at the time they heard about the opportunity with the clinic were hired. Dave, Dennis, their spouses, who also work at the clinic, and supervising physician Dr. Bruce Carlson created a team that continues to sustain one of the most stable and long-term small rural primary care clinics in the state.

Dr. Carlson visits the clinic one day every 2 weeks to see those patients in need of his services and provide overall medical direction. Otherwise, the clinic is staffed full-time by physician assistants Jones and Bruneau. David's wife is a medical technician who works in the clinic and Dennis' wife serves as the clinic manager. When Dr. Carlson is not in Condon, he has his own medical practice 70 miles away in Hermiston, OR, which is also the location of the nearest hospital to Condon.

Not all rural areas are alike and the rural health clinic program gives these providers the flexibility they need to be the regular source of care of primary care in their communities. Regular access to primary care, as you know, is one of the key tests of whether or not you will receive the preventive health screenings that can mean the difference that could save your life. They allow for health problems to be caught early on so that they can be headed off for just a little money, instead of at later stages, which require costly specialty care that runs up the bill for the patient and the taxpayer.

Oregonians in rural areas have the same right to quality, affordable medical care as those living in urban areas, but they do not have it under our current system. This bill will expand access to health care for folks in rural areas and level the playing field for rural health clinics by giving them the tools they need to attract and retain quality medical providers.

I want to thank Senator BARRASSO and his staff for their hard work in bringing this important bipartisan legislation before the Senate.

I hope my colleagues will join Senator BARRASSO and me, and support this much needed and bipartisan bill.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1356. A bill to amend the National Trails System Act to provide for the study of the Western States Trail; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I rise on behalf of myself and Senator FEINSTEIN to speak on the introduction of the Western States Trail Study Act of 2009. This legislation would provide for a study by the Department of the Interior on the possible designation of the Western States Trail as a National Historic Trail.

The National Trails System Act specifies that to qualify for listing as a National Historic Trail, a trail must be historically significant and must have significant potential for public recreational use or historical interpretation and appreciation. The Western States Trail absolutely meets these criteria.

From the beginning of California's recorded history, the Western States Trail has played an important role in the development of our state and nation. Originally a Native American trail used by the Paiute and Washoe Indians, it later became the most direct link between the gold camps of California and silver mines of Nevada. Professor William Brewer also followed part of this trail in his 1863 expedition as part of State Geologist Josiah Whitney's survey of California.

In 1955, the Western States Trail became the site of the world's first and leading 100-mile trail ride, and in 1974 became the world's first and leading ultramarathon run. These recreational events are of tremendous importance to the local community as well as equestrians and runners throughout the nation. Western States volunteers dedicate hundreds of hours each year to the U.S. Forest Service and California Department of Parks and Recreation to maintain the trail, exemplifying citizen action at its best.

Most of the trail remains in the same state as in the 19th century, passing through scenic wilderness ranging from the Sierra Crest, to magnificent forests and mountain streams, to the grasses and oaks of the Sierra foothills.

The citizen-government partnership that our bill represents continues the tradition of the Western States Run to protect and preserve the Western States Trail, and to ensure that the public has access to its rich history and scenery.

By Mr. ROCKEFELLER:

S. 1357. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching Standards, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I believe that perhaps the most effective way to improve the education of our children is to invest in their teachers, and make certain that quality teachers have the incentive to stay in the classroom.

Unfortunately, without new investments, our disadvantaged and rural schools may not be able to attract the qualified teachers needed to prepare our children for the 21st Century workplace. Isolated and impoverished, too many West Virginia schools must compete against higher paying, well-funded schools for scarce classroom talent. As a result, they face a shortage of qualified teachers, particularly in math, science and foreign languages.

Today, I am introducing a bill designed to invest in bringing dedicated and qualified teaching professionals to West Virginia and America's disadvantaged and rural schools. This bill will help give students the opportunity to learn and flourish, an opportunity that every child deserves. The Incentives To Educate American Children Act—or I Teach Act—will provide teachers with a refundable tax credit every year they teach in the public schools with the most need. And it will give every public school teacher—regardless of the school they choose—a refundable tax credit for earning their certification by the National Board for Professional

Teaching Standards. Together, these two tax credits will give economically depressed areas a better ability to recruit and retain skilled teachers.

There are over 16,000 rural school districts in the U.S., and these schools face real challenges in recruiting and retaining teachers, as well as dealing with other issues related to their rural location. Disadvantaged urban schools must overcome similar difficulties. My I Teach Act will reward teachers willing to work in rural or disadvantaged schools with an annual $1,000 refundable tax credit. Additionally, teachers that obtain certification by the National Board for Professional Teaching Standards will receive an annual $1,000 refundable tax credit. Therefore, teachers who work in rural or disadvantaged schools and get certified will earn a $2000 credit. Schools that desperately need help attracting teachers will get a boost, and children educated in disadvantaged and rural schools will benefit most.

In my state of West Virginia, as in over 30 other states, there is already a state fiscal incentive for teachers who earn National Board certification. My legislation builds upon the West Virginia program. Together, they will create a powerful tax incentive for teachers to remain in the classroom and to use their skills where they are most needed.

Education is among our top national priorities. It is essential for all children and it is vital for our economic and national security. Teachers are a critical component of quality education, and they deserve the incentives to stay in the classroom.

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

S. 1361. A bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, today I am pleased to join with Senator BOND in introducing the National Guard Empowerment and State-National Defense Integration Act of 2009. This is a clearly needed piece of legislation that will enable the Nation to tap more of the tremendous experience and expertise that exists within the National Guard.

This legislation—known as Empowerment II—ensures that the Department of Defense takes advantage of the Guard's unique strengths and focuses on the critical mission of domestic operations and military support to civilian authorities. This bill is about focusing attention on the military's response to emergencies at home and fleshing out the structure of that response. Doing that will ensure our National Guard, Reserves and active forces can bring their specialized capabilities to bear, all while safely under the control of democratically elected officials and civilian authorities.

The bill will specifically make the Chief of the National Guard a full member of the Joint Chiefs of Staff, while creating a new three-star deputy to the Bureau Chief to reflect the Bureau Chief's increased responsibilities. Additionally, the 2009 Empowerment Act provides the National Guard Bureau with limited budget authority to be able to acquire specially designed equipment for domestic operations, and it requires the Department of Defense to establish procedures to formalize arrangements to allow National Guard forces to have tactical control over active forces that operate in a domestic setting.

Today Senator BOND and I seek to build on some of the major improvements to the Guard that we, together, made in the Fiscal Year 2008 Defense Authorization Bill. That landmark bill enacted large portions of the first version of the Guard Empowerment Bill which elevated the Chief of the National Guard from three-star general to full General. The goal of all the changes enacted was to begin to ensure that the Guard has a seat at the table in major budget and policy decisions.

We need to pick up where we left off early last year and sharpen the focus on the National Guard's role as a homeland defense and defense support to civilian authorities force. In fact, we are trying, in the realm of domestic operations and military support to civilian authorities, to do exactly what Secretary of Defense Robert Gates is trying to do in the realm of irregular warfare. The Secretary is working to ensure that at least a good portion of the Department of Defense's equipment has utility in counterinsurgency situations. The Secretary has recently testified that he foresees about 10 percent of procured equipment to be dedicated solely for counterinsurgencies. I strongly support the Secretary's initiative.

There also is a need to carve out a small wedge of the defense budget to develop technologies and systems that will help the National Guard, serving in a Title 32 capacity under the control of the Governors. Much of all Guard equipment is considered and should be ''dual use,'' but a sliver should be specially designed and used solely for domestic situations.

The Guard Empowerment bill we are introducing today will also reduce the confusion that sometimes exists when there is a domestic emergency about how National Guard forces, serving under a Governor during an emergency, will interact with active duty forces that serve under the President's command. United States Northern Command in Colorado has unfortunately only exacerbated those concerns through attempts to override Governors and take command-and-control of National Guard assets in a State even though they are in their so-called Title 32 status.

There is nothing in this bill that the National Guard is not already undertaking. The President and the Secretary of Defense look to the Guard Bureau Chief on matters related to defense at home. The Guard works to purchase homeland defense-oriented equipment through the so-called Guard and Reserve Equipment Account, and the Governors already wield active duty personnel during so-called National Security Events. The chain of command arrangements made during last year's political conventions in Minnesota and Colorado are a good example.

The President recognizes that this legislation makes sense. In his ''Blueprint for Change,'' his new Administration's national security plan, President Obama endorsed the idea of making the Guard Bureau Chief a full member of the Joint Chiefs of Staff, a move that Vice President BIDEN also has endorsed. In developing the bill, we worked closely with The National Guard Association of the United States, the Adjutants General Association of the United States and the Enlisted National Guard Association of the United States—organizations that we expect to formally endorse the bill after its introduction.

Everyone recognizes that if there is an emergency like Katrina and our civilian resources at all levels get overwhelmed, the military is going to have to come in to assist. The American people expect no less than a swift, coordinated and effective response. And it is the National Guard that knows how to do this mission right. Providing support to civilian authorities at the State level is what the Guard has done since its inception more than two centuries ago, and it is a mission that the National Guard continues to take seriously.

This legislation solidifies and codifies sensible approaches to improving the Guard's ability to support civil authorities in an emergency. Enactment of this legislation is the very least we owe our proud citizen soldiers and airmen for their efforts.

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

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

S. 1361

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Guard Empowerment and State-National Defense Integration Act of 2009''.

SEC. 2. EXPANDED AUTHORITY OF THE CHIEF OF THE NATIONAL GUARD BUREAU.

(a) MEMBERSHIP ON JOINT CHIEFS OF STAFF.—

(1) IN GENERAL.—Section 151(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(7) The Chief of the National Guard Bureau.''.

(2) CONFORMING AMENDMENT.—Section 10502 of such title is amended—

(A) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(B) by inserting after subsection (c) the following new subsection (d):

''(d) MEMBER OF JOINT CHIEFS OF STAFF.—The Chief of the National Guard Bureau shall perform the duties prescribed for him or her as a member of the Joint Chiefs of Staff under section 151 of this title.''.

(b) ANNUAL REPORT TO CONGRESS ON VALIDATED REQUIREMENTS.—Section 10504 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(c) ANNUAL REPORT ON VALIDATED REQUIREMENTS.—Not later than December 31 each year, the Chief of the National Guard Bureau shall submit to Congress a report on the following:

''(1) The requirements validated under section 10503a(b)(1) of this title during the preceding fiscal year.

''(2) The requirements referred to in paragraph (1) for which funding is to be requested in the next budget for a fiscal year under section 10544 of this title.

''(3) The requirements referred to in paragraph (1) for which funding will not be requested in the next budget for a fiscal year under section 10544 of this title.''.

SEC. 3. EXPANDED FUNCTIONS OF THE NATIONAL GUARD BUREAU.

(a) MILITARY ASSISTANCE FOR CIVIL AUTHORITIES.—Chapter 1011 of title 10, United States Code, is amended by inserting after section 10503 the following new section:

''§ 10503a. Functions of National Guard Bureau: military assistance to civil authorities

''(a) IDENTIFICATION OF ADDITIONAL NECESSARY ASSISTANCE.—The Chief of the National Guard Bureau shall—

''(1) identify gaps between Federal and State military capabilities to prepare for and respond to emergencies; and

''(2) make recommendations to the Secretary of Defense on programs and activities of the National Guard for military assistance to civil authorities to address such gaps.

''(b) SCOPE OF RESPONSIBILITIES.—In meeting the requirements of subsection (a), the Chief of the National Guard Bureau shall, in coordination with the adjutants general of the States, have responsibilities as follows:

''(1) To validate the requirements of the several States and Territories with respect to military assistance to civil authorities.

''(2) To develop doctrine and training requirements relating to the provision of military assistance to civil authorities.

''(3) To acquire equipment, materiel, and other supplies and services for the provision of military assistance to civil authorities.

''(4) To assist the Secretary of Defense in preparing the budget required under section 10544 of this title.

''(5) To administer amounts provided the National Guard for the provision of military assistance to civil authorities.

''(6) To carry out any other responsibility relating to the provision of military assistance to civil authorities as the Secretary of Defense shall specify.

''(c) ASSISTANCE.—The Chairman of the Joint Chiefs of Staff shall assist the Chief of the National Guard Bureau in carrying out activities under this section.

''(d) CONSULTATION.—(1) The Chief of the National Guard Bureau shall carry out activities under this section through and utilizing an integrated planning process established by the Chief of the National Guard Bureau for purposes of this subsection. The planning process may be known as the 'National Guard Bureau Strategic Integrated Planning Process'.

''(2)(A) Under the integrated planning process established under paragraph (1)—

''(i) the planning committee described in subparagraph (B) shall develop and submit to the planning directorate described in subparagraph (C) plans and proposals on such matters under the planning process as the Chief of the National Guard Bureau shall designate for purposes of this subsection; and

''(ii) the planning directorate shall review and make recommendations to the Chief of the National Guard Bureau on the plans and proposals submitted to the planning directorate under clause (i).

''(B) The planning committee described in this subparagraph is a planning committee (to be known as the 'State Strategic Integrated Planning Committee') composed of the adjutant general of each of the several States, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and the District of Columbia.

''(C) The planning directorate described in this subparagraph is a planning directorate (to be known as the 'Federal Strategic Integrated Planning Directorate') composed of the following (as designated by the Secretary of Defense for purposes of this subsection):

''(i) A major general of the Army National Guard.

''(ii) A major general of the Air National Guard.

''(iii) A major general of the regular Army.

''(iv) A major general of the regular Air Force.

''(v) A major general (other than a major general under clauses (iii) and (iv)) of the United States Northern Command.

''(vi) The Vice Chief of the National Guard Bureau.

''(vii) Seven adjutants general from the planning committee under paragraph (B).''.

(b) BUDGETING FOR TRAINING AND EQUIPMENT AND MILITARY CONSTRUCTION FOR MILITARY ASSISTANCE TO CIVIL AUTHORITIES AND OTHER DOMESTIC MISSIONS.—Chapter 1013 of such title is amended by adding at the end the following new section:

''§ 10544. National Guard training and equipment and military construction: budget for military assistance to civil authorities and for other domestic operations

''(a) IN GENERAL.—The budget justification documents materials submitted to Congress in support of the budget of the President for a fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) shall specify separate amounts for the National Guard for purposes of military assistance to civil authorities and for other domestic operations during such fiscal year as follows:

''(1) Amounts for training and equipment, including critical dual-use equipment.

''(2) Amounts for military construction, including critical dual-use capital construction.

''(b) SCOPE OF FUNDING.—The amounts specified under subsection (a) for a fiscal year shall be sufficient for purposes as follows:

''(1) The development and implementation of doctrine and training requirements applicable to the assistance and operations described in subsection (a) for such fiscal year.

''(2) The acquisition of equipment, materiel, and other supplies and services necessary for the provision of such assistance and such operations in such fiscal year.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 1011 of such title is amended by inserting after the item relating to section 10503 the following new item:

''10503a. Functions of National Guard Bureau: military assistance to civil authorities.''.

(2) The table of sections at the beginning of chapter 1013 of such title is amended by adding at the end the following new item:

''10544. National Guard training and equipment and military construction: budget for military assistance to civil authorities and for other domestic operations.''.

SEC. 4. REESTABLISHMENT OF POSITION OF VICE CHIEF OF THE NATIONAL GUARD BUREAU.

(a) REESTABLISHMENT OF POSITION.—

(1) IN GENERAL.—Chapter 1011 of title 10, United States Code, is amended—

(A) by redesignating section 10505 as section 10505a; and

(B) by inserting after section 10504 the following new section 10505:

''§ 10505. Vice Chief of the National Guard Bureau

''(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

''(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

''(B) have had at least 10 years of federally recognized service in an active status in the National Guard; and

''(C) are in a grade above the grade of colonel.

''(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

''(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

''(B) The term of the Vice Chief of the National Guard Bureau shall end within a reasonable time (as determined by the Secretary of Defense) following the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

''(b) DUTIES.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

''(c) GRADE.—The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

''(d) FUNCTIONS AS ACTING CHIEF.—When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence of disability ceases.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1011 of such title is amended by striking the item relating to section 10505 and inserting the following new items:

''10505. Vice Chief of the National Guard Bureau.

''10505a. Director of the Joint Staff of the National Guard Bureau.''.

(b) CONFORMING AMENDMENT.—Section 10506(a)(1) of such title is amended by striking ''and the Director of the Joint Staff of the National Guard Bureau'' and inserting '', the Vice Chief of the National Guard Bureau, and the Director of the Joint Staff of the National Guard Bureau''.

SEC. 5. STATE CONTROL OF FEDERAL MILITARY FORCES ENGAGED IN ACTIVITIES WITHIN THE STATES AND POSSESSIONS.

(a) IN GENERAL.—Part I of subtitle A of title 10, United States Code, is amended by inserting after chapter 15 the following new chapter:

"CHAPTER 16—CONTROL OF THE ARMED FORCES IN ACTIVITIES WITHIN THE STATES AND POSSESSIONS

''Sec.

''341. Tactical control of the armed forces engaged in activities within the States and possessions: emergency response activities.

"§ 341. Tactical control of the armed forces engaged in activities within the States and possessions: emergency response activities

''(a) IN GENERAL.—The Secretary of Defense shall prescribe in regulations policies and procedures to assure that tactical control of the armed forces on active duty within a State or possession is vested in the governor of the State or possession, as the case may be, when such forces are engaged in a domestic operation, including emergency response, within such State or possession.

''(b) DISCHARGE THROUGH JOINT FORCE HEADQUARTERS.—The policies and procedures required under subsection (a) shall provide for the discharge of tactical control by the governor of a State or possession as described in that subsection through the Joint Force Headquarters of the National Guard in the State or possession, as the case may be, acting through the officer of the National Guard in command of the Headquarters.

''(c) POSSESSIONS DEFINED.—Notwithstanding any provision of section 101(a) of this title, in this section, the term 'possessions' means the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.''.

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 10, United States Code, and at the beginning of part I of subtitle A of such title, are each amended by inserting after the item relating to chapter 15 the following new item:

"16. Control of the Armed Forces in Activities Within the States and Possessions ..... 341".

SEC. 6. FISCAL YEAR 2010 FUNDING FOR THE NATIONAL GUARD FOR CERTAIN DOMESTIC ACTIVITIES.

(a) CONTINUITY OF OPERATIONS, CONTINUITY OF GOVERNMENT, AND CONSEQUENCE MANAGEMENT.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2010 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, $11,000,000.

(B) For National Guard Personnel, Air Force, $3,500,000.

(C) For Operation and Maintenance, Army National Guard, $11,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in training and operations with respect to continuity of operations, continuity of government, and consequence management in connection with response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(b) DOMESTIC OPERATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2010 for the Department of Defense, $300,000,000 for Operation and Maintenance, Defense-wide.

(2) AVAILABILITY.—The amount authorized to be appropriated by paragraph (1) shall be available for the Army National Guard and the Air National Guard for emergency preparedness and response activities of the National Guard while in State status under title 32, United States Code.

(3) TRANSFER.—Amounts under the amount authorized to be appropriated by paragraph (1) shall be available for transfer to accounts for National Guard Personnel, Army, and National Guard Personnel, Air Force, for purposes of the pay and allowances of members of the National Guard in conducting activities described in paragraph (2).

(c) JOINT OPERATIONS COORDINATION CENTERS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2010 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, $28,000,000.

(B) For National Guard Personnel, Air Force, $7,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in continuously staffing a Joint Operations Coordination Center (JOCC) in the Joint Forces Headquarters of the National Guard in each State and Territory for command and control and activation of forces in response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(d) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by subsections (a), (b), and (c) for the purposes set forth in such subsections are in addition to any other amounts authorized to be appropriated for fiscal year 2010 for the Department of Defense for such purposes.

SEC. 7. ENHANCEMENT OF AUTHORITIES RELATING TO THE UNITED STATES NORTHERN COMMAND AND OTHER COMBATANT COMMANDS.

(a) COMMANDS RESPONSIBLE FOR SUPPORT TO CIVIL AUTHORITIES IN THE UNITED STATES.—The United States Northern Command and the United States Pacific Command shall be the combatant commands of the Armed Forces that are principally responsible for the support of civil authorities in the United States by the Armed Forces.

(b) DISCHARGE OF RESPONSIBILITY.—In discharging the responsibility set forth in subsection (a), the Commander of the United States Northern Command and the Commander of the United States Pacific Command shall each—

(1) in consultation with and acting through the Chief of the National Guard Bureau and the Joint Force Headquarters of the National Guard of the State or States concerned, assist the States in the employment of the National Guard under State control, including National Guard operations conducted in State active duty or under title 32, United States Code; and

(2) facilitate the deployment of the Armed Forces on active duty under title 10, United States Code, as necessary to augment and support the National Guard in its support of civil authorities when National Guard operations are conducted under State control, whether in State active duty or under title 32, United States Code.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) MEMORANDUM REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau shall, with the approval of the Secretary of Defense, jointly enter into a memorandum of understanding setting forth the operational relationships, and individual roles and responsibilities, during responses to domestic emergencies among the United States Northern Command, the United States Pacific Command, and the National Guard Bureau.

(2) MODIFICATION.—The Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau may from time to time modify the memorandum of understanding under this subsection to address changes in circumstances and for such other purposes as the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau jointly consider appropriate. Each such modification shall be subject to the approval of the Secretary of Defense.

(d) AUTHORITY TO MODIFY ASSIGNMENT OF COMMAND RESPONSIBILITY.—Nothing in this section shall be construed as altering or limiting the power of the President or the Secretary of Defense to modify the Unified Command Plan in order to assign all or part of the responsibility described in subsection (a) to a combatant command other than the United States Northern Command or the United States Pacific Command.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of aiding the expeditious implementation of the authorities and responsibilities in this section.

SEC. 8. REQUIREMENTS RELATING TO NATIONAL GUARD OFFICERS IN CERTAIN COMMAND POSITIONS.

(a) COMMANDER OF ARMY NORTH COMMAND.—The officer serving in the position of Commander, Army North Command, shall be an officer in the Army National Guard of the United States.

(b) COMMANDER OF AIR FORCE NORTH COMMAND.—The officer serving in the position of Commander, Air Force North Command, shall be an officer in the Air National Guard of the United States.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in assigning officers to the command positions specified in subsections (a) and (b), the President should afford a preference in assigning officers in the Army National Guard of the United States or Air National Guard of the United States, as applicable, who have served as the adjutant general of a State.

By Mr. REED (for himself, Ms. KLOBUCHAR, Ms. STABENOW, Mr. WHITEHOUSE, and Mr. LAUTENBERG):

S. 1362. A bill to provide grants to States to ensure that all students in the middle grades are taught an academically rigorous curriculum with effective supports so that students complete the middle grades prepared for success in high school and postsecondary endeavors, to improve State and district policies and programs relating to the academic achievement of students in the middle grades, to develop and implement effective middle grades models for struggling students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I am introducing the Success in the Middle Act, which will help provide new support for raising student achievement in the middle grades. I thank Senators KLOBUCHAR, STABENOW, WHITEHOUSE, and LAUTENBERG for joining me as original cosponsors.

We know that the middle grades are an important and unique transition period for young people, and a critical

time in a student's educational and social development. The middle grades are the key to ensuring students remain on track to college and career-readiness. International comparisons indicate that students in the United States do not start out behind other nations in math and science, but they fall significantly behind in these subjects by the end of the middle grades. According to the 2007 National Assessment on Educational Progress, only one-third of eighth grade students in the United States can read at proficiency or above. For math proficiency, this number falls to 31 percent of all American eighth grade students.

There has been significant focus during K–12 reform discussions regarding high school reform, and while there is no doubt that this is an essential component of improving our education system, addressing dropout prevention must begin earlier. It must begin at the middle schools that feed into the thousands of ''dropout factories'' across the country. Dropout factories are high schools in which fewer than 60 percent of students graduate. As one of the leading experts in the area of middle and high school reform, Robert Balfanz, has stated, middle schools are the ''first line of defense'' in identifying at-risk students and then effectively intervening to prevent them from dropping out. Balfanz's research has shown that sixth-graders who failed math or English, attended school less than 80 percent of the time, or received an unsatisfactory behavior grade in a core course had only a 10 to 20 percent chance of graduating on time. Without successful intervention, these behaviors lead students to course failure, non-promotion, and eventually dropping out.

That is why I am reintroducing the Success in the Middle Act. This bill will help strengthen that first line of defense by authorizing grants to states and school districts to improve and turnaround low-performing middle schools. It would concentrate new resources on the middle grades by requiring districts to develop an early warning indicator system for indentifying students at risk of dropping out, and tailoring research-based interventions to get these students back on track to graduating college and career-ready. These interventions would include high-quality professional development for teachers; personal academic plans such as the Individual Learning Plans required in Rhode Island; mentoring and counseling; and extended learning time.

When he was in the Senate, President Obama was the lead sponsor of this legislation. I am pleased that the President has continued to recognize the need for increased investment in middle and high school reform, including earlier this year, his action to encourage states and school districts to spend a significant portion of their American Recovery and Reinvestment Act education funds on improving student achievement in the middle and high school grades.

I was pleased to work with the Rhode Island Middle Level Educators, Rhode Island Association of School Principals, ACT, Alliance for Excellent Education, The College Board, International Reading Association, National Association of Secondary School Principals, National Council of Teachers of English, National Forum to Accelerate Middle Grades Reform, and National Middle Schools Association, and a host of other education organizations on this bill. I urge my colleagues to cosponsor the Success in the Middle Act.

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

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

S. 1362

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 ''Success in the Middle Act of 2009''.

SEC. 2. FINDINGS.

In this Act:

(1) International comparisons indicate that students in the United States do not start out behind students of other nations in mathematics and science, but that they fall behind by the end of the middle grades.

(2) Only ⅓ of eighth grade students in the United States, and only 4 percent of such students who are English language learners, can read with proficiency, according to the 2007 National Assessment on Educational Progress (NAEP). The percentage of eighth grade students proficient at reading has not increased since 1998, and the NAEP average reading score for eighth grade students has remained static. In contrast, NAEP reading scores and achievement levels for fourth grade students have increased significantly.

(3) In mathematics, less than ⅓ of students in eighth grade show skills at the NAEP proficient level, and nearly 30 percent score below the basic level. The percentage of eighth grade students scoring above the basic level was 8 points higher in 2007 than in 2000, but for fourth grade students, the percentage increased 17 points, more than double the increase for middle grades students. In eighth grade, the gaps between the average mathematics scores of white and black students and between white and Hispanic students were as wide in 2007 as in 1990.

(4) Fewer than 2 in 10 of the students who graduated from high school in 2005 or 2006 met, as eighth graders, all 4 of ACT's EXPLORE College Readiness Benchmarks, the minimum level of achievement that ACT has shown is necessary if students are to be college- and career-ready upon their high school graduation.

(5) Lack of basic skills at the end of middle grades has serious implications for students. Students who enter high school 2 or more years behind grade level in mathematics and literacy have only a 50 percent chance of progressing on time to the tenth grade; those not progressing are at significant risk of dropping out of high school.

(6) Middle grades students are hopeful about their future, with 93 percent believing that they will complete high school and 92 percent anticipating that they will attend college.

(7) Sixth grade students who do not attend school regularly, who are subjected to frequent disciplinary actions, or who fail mathematics or English have less than a 15 percent chance of graduating high school on time and a 20 percent chance of graduating 1 year late. Without effective interventions and proper supports, these students are at risk of subsequent failure in high school, or of dropping out.

(8) Student transitions from elementary school to the middle grades and to high school are often complicated by poor curriculum alignment, inadequate counseling services, and unsatisfactory sharing of student performance and academic achievement data between grades.

(9) According to ACT, the level of academic achievement that students attain by eighth grade has a larger impact on the students' college and career readiness upon graduation from high school than anything that happens academically in high school.

(10) Middle schools are almost twice as likely as elementary schools to be identified for improvement, corrective action, or restructuring (22 percent as compared to 13 percent) under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 63116).

(11) Middle grades improvement strategies should be tailored based on a variety of performance indicators and data, so that educators can create and implement successful school improvement strategies to address the needs of the middle grades, and so that teachers can provide effective instruction and adequate assistance to meet the needs of at-risk students.

(12) To stem a dropout rate nearly twice that of students without disabilities, students with disabilities in the critical middle grades must receive appropriate academic accommodations and access to assistive technology, high-risk behaviors such as absenteeism and course failure must be monitored, and problem-solving skills with broad application must be taught.

(13) Local educational agencies and State educational agencies often do not have the capacity to provide support for school improvement strategies. Successful models do exist for turning around low-performing middle grades, and Federal support should be provided to increase the capacity to apply promising practices based on evidence from successful schools.

SEC. 3. DEFINITIONS.

In this Act:

(1) ESEA DEFINITIONS.—The terms ''elementary school'', ''local educational agency'', ''secondary school'', 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 ENTITY.—The term ''eligible entity'' means a partnership that includes—

(A) not less than 1 eligible local educational agency; and

(B)(i) an institution of higher education;

(ii) an educational service agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)); or

(iii) a nonprofit organization with demonstrated expertise in high quality middle grades intervention.

(3) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency that serves not less than 1 eligible school.

(4) ELIGIBLE SCHOOL.—The term ''eligible school'' means an elementary or secondary school that contains not less than 2 or more successive grades beginning with grade 5 and ending with grade 8 and for which—

(A) a high proportion of the middle grades students attending such school go on to attend a high school with a graduation rate of less than 65 percent;

(B) more than 25 percent of the students who finish grade 6 at such school, or the earliest middle grade level at the school, exhibit 1 or more of the key risk factors and early risk identification signs, including—

(i) student attendance below 90 percent;

(ii) a failing grade in a mathematics or reading or language arts course;

(iii) 2 failing grades in any courses; and

(iv) out-of-school suspension or other evidence of at-risk behavior; or

(C) more than 50 percent of the middle grades students attending such school do not perform at a proficient level on State student academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) in mathematics or reading or language arts.

(5) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(6) MIDDLE GRADES.—The term ''middle grades'' means any of grades 5 through 8.

(7) SCIENTIFICALLY VALID.—The term ''scientifically valid'' means the rationale, design, and interpretation are soundly developed in accordance with accepted principles of scientific research.

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

(9) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(10) STUDENT WITH A DISABILITY.—The term ''student with a disability'' means a student who is a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

TITLE I—MIDDLE GRADES IMPROVEMENT

SEC. 101. PURPOSES.

The purposes of this title are to—

(1) improve middle grades student academic achievement and prepare students for rigorous high school course work, postsecondary education, independent living, and employment;

(2) ensure that curricula and student supports for middle grades education align with the curricula and student supports provided for elementary and high school grades;

(3) provide resources to State educational agencies and local educational agencies to collaboratively develop school improvement plans in order to deliver support and technical assistance to schools serving students in the middle grades; and

(4) increase the capacity of States and local educational agencies to develop effective, sustainable, and replicable school improvement programs and models and evidence-based or, when available, scientifically valid student interventions for implementation by schools serving students in the middle grades.

SEC. 102. FORMULA GRANTS TO STATE EDUCATIONAL AGENCIES FOR MIDDLE GRADES IMPROVEMENT.

(a) IN GENERAL.—From amounts appropriated under section 107, the Secretary shall make grants under this title for a fiscal year to each State educational agency for which the Secretary has approved an application under subsection (f) in an amount equal to the allotment determined for such agency under subsection (c) for such fiscal year.

(b) RESERVATIONS.—From the total amount made available to carry out this title for a fiscal year, the Secretary—

(1) shall reserve not more than 1 percent for the Secretary of the Interior (on behalf of the Bureau of Indian Affairs) and the outlying areas for activities carried out in accordance with this section;

(2) shall reserve 1 percent to evaluate the effectiveness of this title in achieving the purposes of this title and ensuring that results are peer-reviewed and widely disseminated, which may include hiring an outside evaluator; and

(3) shall reserve 5 percent for technical assistance and dissemination of best practices in middle grades education to States and local educational agencies.

(c) AMOUNT OF STATE ALLOTMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), of the total amount made available to carry out this title for a fiscal year and not reserved under subsection (b), the Secretary shall allot such amount among the States in proportion to the number of children, aged 5 to 17, who reside within the State and are from families with incomes below the poverty line for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in all such States for that fiscal year, determined in accordance with section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965(20 U.S.C. 6333(c)(1)(A)).

(2) MINIMUM ALLOTMENTS.—No State educational agency shall receive an allotment under this subsection for a fiscal year that is less than ½ of 1 percent of the amount made available to carry out this title for such fiscal year.

(d) SPECIAL RULE.—For any fiscal year for which the funds appropriated to carry out this title are less that $500,000,000, the Secretary is authorized to award grants to State educational agencies, on a competitive basis, rather than as allotments described in this section, to enable such agencies to award subgrants under section 104 on a competitive basis.

(e) REALLOTMENT.—

(1) FAILURE TO APPLY; APPLICATION NOT APPROVED.—If any State educational agency does not apply for an allotment under this title for a fiscal year, or if the application from the State educational agency is not approved, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

(2) UNUSED FUNDS.—The Secretary may reallot any amount of an allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under subsection (c).

(f) APPLICATION.—In order to receive a grant under this title, 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 reasonably require, including a State middle grades improvement plan described in section 103(a)(4).

(g) PEER REVIEW AND SELECTION.—The Secretary—

(1) shall establish a peer-review process to assist in the review and approval of proposed State applications;

(2) shall appoint individuals to participate in the peer-review process who are educators and experts in identifying, evaluating, and implementing effective education programs and practices (including the areas of teaching and learning, educational standards and assessments, school improvement, and academic and behavioral supports for middle grades students), which individuals may include recognized exemplary middle grades teachers and middle grades principals who have been recognized at the State or national level for exemplary work or contributions to the field;

(3) shall ensure that States are given the opportunity to receive timely feedback, and to interact with peer-review panels, in person or via electronic communication, on issues that need clarification during the peer-review process;

(4) shall approve a State application submitted under this title not later than 120 days after the date of submission of the application unless the Secretary determines that the application does not meet the requirements of this title;

(5) may not decline to approve a State's application before—

(A) offering the State an opportunity to revise the State's application;

(B) providing the State with technical assistance in order to submit a successful application; and

(C) providing a hearing to the State; and

(6) shall direct the Inspector General of the Department of Education to—

(A) review final determinations reached by the Secretary to approve or deny State applications;

(B) analyze the consistency of the process used by peer-review panels in reviewing and recommending to the Secretary approval or denial of such State applications; and

(C) report the findings of this review and analysis to Congress.

SEC. 103. STATE PLAN; AUTHORIZED ACTIVITIES.

(a) MANDATORY ACTIVITIES.—

(1) IN GENERAL.—A State educational agency that receives a grant under this title shall use the grant funds—

(A) to prepare and implement the needs analysis and middle grades improvement plan, as described in paragraphs (3) and (4), of such agency;

(B) to make subgrants to eligible local educational agencies or eligible entities under section 104; and

(C) to assist eligible local educational agencies and eligible entities, when determined necessary by the State educational agency or at the request of an eligible local educational agency or eligible entity, in designing a comprehensive schoolwide improvement plan and carrying out the activities under section 104.

(2) FUNDS FOR SUBGRANTS.—A State educational agency that receives a grant under this title shall use not less than 80 percent of the grant funds to make subgrants to eligible local educational agencies or eligible entities under section 104.

(3) MIDDLE GRADES NEEDS ANALYSIS.—

(A) IN GENERAL.—A State educational agency that receives a grant under this title shall enter into a contract, or similar formal agreement, to work with entities such as national and regional comprehensive centers (as described in section 203 of the Educational Technical Assistance Act of 2002 (20 U.S.C. 9602)), institutions of higher education, or nonprofit organizations with demonstrated expertise in high-quality middle grades reform, to prepare a plan that analyzes how to strengthen the programs, practices, and policies of the State in supporting students in the middle grades, including the factors, such as local implementation, that influence variation in the effectiveness of such programs, practices, and policies.

(B) PREPARATION OF PLAN.—In preparing the plan under subparagraph (A), the State educational agency shall examine policies and practices of the State, and of local educational agencies within the State, affecting—

(i) middle grades curriculum instruction and assessment;

(ii) education accountability and data systems;

(iii) teacher quality and equitable distribution; and

(iv) interventions that support learning in school.

(4) MIDDLE GRADES IMPROVEMENT PLAN.—

(A) IN GENERAL.—A State educational agency that receives a grant under this title

shall develop a middle grades improvement plan that—

(i) shall be a statewide plan to improve student academic achievement in the middle grades, based on the needs analysis described in paragraph (3); and

(ii) describes what students are required to know and do to successfully—

(I) complete the middle grades; and

(II) make the transition to succeed in academically rigorous high school coursework that prepares students for college, independent living, and employment.

(B) PLAN COMPONENTS.—A middle grades improvement plan described in subparagraph (A) shall also describe how the State educational agency will do each of the following:

(i)(I) Ensure that the curricula and assessments for middle grades education are aligned with high school curricula and assessments and prepare students to take challenging high school courses and successfully engage in postsecondary education; and

(II) ensure coordination, where applicable, with the activities carried out through grants for P–16 education alignment under section 6401(c)(1) of the America COMPETES Act (20 U.S.C. 9871(c)(1)).

(ii) Ensure that professional development is provided to school leaders, teachers, and other school personnel in—

(I) addressing the needs of diverse learners, including students with disabilities and English language learners;

(II) using challenging and relevant research-based best practices and curricula; and

(III) using data to inform instruction.

(iii) Identify and disseminate information on effective schools and instructional strategies for middle grades students based on high-quality research.

(iv) Include specific provisions for students most at risk of not graduating from secondary school, including English language learners and students with disabilities.

(v) Provide technical assistance to eligible entities to develop and implement their early warning indicator and intervention systems, as described in section 104(d)(2)(D).

(vi) Define a set of comprehensive school performance indicators that shall be used, in addition to the indicators used to determine adequate yearly progress, as defined in section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)), to evaluate school performance, and guide the school improvement process, such as—

(I) student attendance and absenteeism;

(II) earned on-time promotion rates from grade to grade;

(III) percentage of students failing a mathematics, reading or language arts, or science course, or failing 2 or more of any courses;

(IV) teacher quality and attendance measures;

(V) in-school and out-of-school suspension or other measurable evidence of at-risk behavior; and

(VI) additional indicators proposed by the State educational agency, and approved by the Secretary pursuant to the peer-review process described in section 102(g).

(vii) Ensure that such plan is coordinated with State activities to turn around other schools in need of improvement, including State activities to improve high schools and elementary schools.

(b) PERMISSIBLE ACTIVITIES.—A State educational agency that receives a grant under this title may use the grant funds to—

(1) develop and encourage collaborations among researchers at institutions of higher education, State educational agencies, educational service agencies (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), local educational agencies, and nonprofit organizations with demonstrated expertise in high quality middle grades interventions, to expand the use of effective practices in the middle grades and to improve middle grades education;

(2) support local educational agencies in implementing effective middle grades practices, models, and programs that—

(A) are evidence-based or, when available, scientifically valid; and

(B) lead to improved student academic achievement;

(3) support collaborative communities of middle grades teachers, administrators, and researchers in creating and sustaining informational databases to disseminate results from rigorous research on effective practices and programs for middle grades education; and

(4) increase middle grades student support services, such as school counseling on the transition to high school and planning for entry into postsecondary education and the workforce.

SEC. 104. COMPETITIVE SUBGRANTS TO IMPROVE LOW-PERFORMING MIDDLE GRADES.

(a) IN GENERAL.—A State educational agency that receives a grant under this title shall make competitive subgrants to eligible local educational agencies and eligible entities to enable the eligible local educational agencies and eligible entities to improve low-performing middle grades in schools served by the agencies or entities.

(b) PRIORITIES.—In making subgrants under subsection (a), a State educational agency shall give priority to eligible local educational agencies or eligible entities based on—

(1) the respective populations of children described in section 102(c)(1) served by the eligible local educational agencies participating in the subgrant application process; and

(2) the respective populations of children served by the participating eligible local educational agencies who attend eligible schools.

(c) APPLICATION.—An eligible local educational agency or eligible entity that desires to receive a subgrant under subsection (a) shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require, including—

(1) a comprehensive schoolwide improvement plan described in subsection (d);

(2) a description of how activities described in such plan will be coordinated with activities specified in plans for schoolwide programs under section 1114 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6314) and school improvement plans required under section 1116(b)(3) of such Act (20 U.S.C. 6316(b)(3)); and

(3) a description of how activities described in such plan will be complementary to, and coordinated with, school improvement activities for elementary schools and high schools in need of improvement that serve the same students within the participating local educational agency.

(d) COMPREHENSIVE SCHOOLWIDE IMPROVEMENT PLAN.—An eligible local educational agency or eligible entity that desires to receive a subgrant under subsection (a) shall develop a comprehensive schoolwide improvement plan for the middle grades that shall—

(1) include the information described in subsection (c)(2);

(2) describe how the eligible local educational agency or eligible entity will—

(A) identify eligible schools;

(B) ensure that funds go to the highest priority eligible schools first, based on the eligible schools' populations of children described in section 102(c)(1);

(C) use funds to improve the academic achievement of all students, including English language learners and students with disabilities, in eligible schools;

(D) implement an early warning indicator and intervention system to alert schools when students begin to exhibit outcomes or behaviors that indicate the student is at increased risk for low academic achievement or is unlikely to progress to secondary school graduation, and to create a system of evidence-based interventions to be used by schools to effectively intervene, by—

(i) identifying and analyzing, such as through the use of longitudinal data of past cohorts of students, the academic and behavioral indicators in the middle grades that most reliably predict dropping out of high school, such as attendance, behavior measures (including suspensions, officer referrals, or conduct marks), academic performance in core courses, and earned on-time promotion from grade-to-grade;

(ii) analyzing student progress and performance on the indicators identified under clause (i) to guide decisionmaking;

(iii) analyzing academic indicators to determine whether students are on track to graduate on time, and developing appropriate evidence-based intervention; and

(iv) identifying or developing a mechanism for regularly collecting and reporting—

(I) student-level data on the indicators identified under clause (i);

(II) student-level progress and performance, as described in clause (ii);

(III) student-level data on the indicators described in clause (iii); and

(IV) information about the impact of interventions on student outcomes and progress;

(E) increase academic rigor and foster student engagement to ensure students are entering high school prepared for success in a rigorous college-ready curriculum, including a description of how such readiness will be measured;

(F) implement a systemic transition plan for all students and encourage collaboration among elementary grades, middle grades, and high school grades; and

(G) provide evidence that the strategies, programs, supports, and instructional practices proposed under the schoolwide improvement plan are new and have not been implemented before by the eligible local educational agency or eligible entity; and

(3) provide evidence of an ongoing commitment to sustain the plan for a period of not less than 4 years.

(e) REVIEW AND SELECTION OF SUBGRANTS.—In making subgrants under subsection (a), the State educational agency shall—

(1) establish a peer-review process to assist in the review and approval of applications under subsection (c); and

(2) appoint individuals to participate in the peer-review process who are educators and experts in identifying, evaluating, and implementing effective education programs and practices, including areas of teaching and learning, educational standards and assessments, school improvement, and academic and behavioral supports for middle grades students, including recognized exemplary middle grades teachers and principals who have been recognized at the State or national level for exemplary work or contributions to the field.

(f) REVISION OF SUBGRANTS.—If a State educational agency, using the peer-review process described in subsection (e), determines that an application for a grant under subsection (a) does not meet the requirements of this title, the State educational agency shall

notify the eligible local educational agency or eligible entity of such determination and the reasons for such determination, and offer—

(1) the eligible local educational agency or eligible entity an opportunity to revise and resubmit the application; and

(2) technical assistance to the eligible local educational agency or eligible entity, by the State educational agency or a nonprofit organization with demonstrated expertise in high quality middle grades interventions, to revise the application.

(g) MANDATORY USES OF FUNDS.—An eligible local educational agency or eligible entity that receives a subgrant under subsection (a) shall carry out the following:

(1) Align the curricula for grades kindergarten through 12 for schools within the local educational agency to improve transitions from elementary grades to middle grades to high school grades.

(2) In each eligible school served by the eligible local educational agency receiving or participating in the subgrant:

(A) Align the curricula for all grade levels within eligible schools to improve grade to grade transitions.

(B) Implement evidence-based or, when available, scientifically valid instructional strategies, programs, and learning environments that meet the needs of all students and ensure that school leaders and teachers receive professional development on the use of these strategies.

(C) Ensure that school leaders, teachers, pupil service personnel, and other school staff understand the developmental stages of adolescents in the middle grades and how to deal with those stages appropriately in an educational setting.

(D) Implement organizational practices and school schedules that allow for effective leadership, collaborative staff participation, effective teacher teaming, and parent and community involvement.

(E) Create a more personalized and engaging learning environment for middle grades students by developing a personal academic plan for each student and assigning not less than 1 adult to help monitor student progress.

(F) Provide all students with information and assistance about the requirements for high school graduation, college admission, and career success.

(G) Utilize data from an early warning indicator and intervention system described in subsection (d)(2)(D) to identify struggling students and assist the students as the students transition from elementary school to middle grades to high school.

(H) Implement academic supports and effective and coordinated additional assistance programs to ensure that students have a strong foundation in reading, writing, mathematics, and science skills.

(I) Implement evidence-based or, when available, scientifically valid schoolwide programs and targeted supports to promote positive academic outcomes, such as increased attendance rates and the promotion of physical, personal, and social development.

(J) Develop and use effective formative assessments to inform instruction.

(h) PERMISSIBLE USES OF FUNDS.—An eligible local educational agency or eligible entity that receives a subgrant under subsection (a) may use the subgrant funds to carry out the following:

(1) Implement extended learning opportunities in core academic areas including more instructional time in literacy, mathematics, science, history, and civics in addition to opportunities for language instruction and understanding other cultures and the arts.

(2) Provide evidence-based professional development activities with specific benchmarks to enable teachers and other school staff to appropriately monitor academic and behavioral progress of, and modify curricula and implement accommodations and assistive technology services for, students with disabilities, consistent with the students' individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)).

(3) Employ and use instructional coaches, including literacy, mathematics, and English language learner coaches.

(4) Provide professional development for content-area teachers on working effectively with English language learners and students with disabilities, as well as professional development for English as a second language educators, bilingual educators, and special education personnel.

(5) Encourage and facilitate the sharing of data among elementary grades, middle grades, high school grades, and postsecondary educational institutions.

(6) Create collaborative study groups composed of principals or middle grades teachers, or both, among eligible schools within the eligible local educational agency receiving or participating in the subgrant, or between such eligible local educational agency and another local educational agency, with a focus on developing and sharing methods to increase student learning and academic achievement.

(i) PLANNING SUBGRANTS.—

(1) IN GENERAL.—In addition to the subgrants described in subsection (a), a State educational agency may (without regard to the preceding provisions of this section) make planning subgrants, and provide technical assistance, to eligible local educational agencies and eligible entities that have not received a subgrant under subsection (a) to assist the local educational agencies and eligible entities in meeting the requirements of subsections (c) and (d).

(2) AMOUNT AND DURATION.—Each subgrant under this subsection shall be in an amount of not more than $100,000 and shall be for a period of not more than 1 year in duration.

SEC. 105. DURATION OF GRANTS; SUPPLEMENT NOT SUPPLANT.

(a) DURATION OF GRANTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), grants under this title and subgrants under section 104(a) may not exceed 3 years in duration.

(2) RENEWALS.—

(A) IN GENERAL.—Grants and subgrants under this title may be renewed in 2-year increments.

(B) CONDITIONS.—In order to be eligible to have a grant or subgrant renewed under this paragraph, the grant or subgrant recipient shall demonstrate, to the satisfaction of the granting entity, that—

(i) the recipient has complied with the terms of the grant or subgrant, including by undertaking all required activities; and

(ii) during the period of the grant or subgrant, there has been significant progress in—

(I) student academic achievement, as measured by the annual measurable objectives established pursuant to section 1111(b)(2)(C)(v) of the Elementary and Secondary Education Act (20 U.S.C. 6311(b)(2)(C)(v)); and

(II) other key risk factors such as attendance and on-time promotion.

(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—

(1) IN GENERAL.—A State educational agency, eligible local educational agency, or eligible entity shall use Federal funds received under this title only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this title, and not to supplant such funds.

(2) SPECIAL RULE.—Nothing in this title shall be construed to authorize an officer, employee, or contractor of the Federal Government to mandate, direct, limit, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

SEC. 106. EVALUATION AND REPORTING.

(a) EVALUATION.—Not later than 180 days after the date of enactment of this Act, and annually thereafter for the period of the grant, each State receiving a grant under this title shall—

(1) conduct an evaluation of the State's progress regarding the impact of the changes made to the policies and practices of the State in accordance with this title, including—

(A) a description of the specific changes made, or in the process of being made, to policies and practices as a result of the grant;

(B) a discussion of any barriers hindering the identified changes in policies and practices, and implementations strategies to overcome such barriers;

(C) evidence of the impact of changes to policies and practices on behavior and actions at the local educational agency and school level; and

(D) evidence of the impact of the changes to State and local policies and practices on improving measurable learning gains by middle grades students;

(2) use the results of the evaluation conducted under paragraph (1) to adjust the policies and practices of the State as necessary to achieve the purposes of this title; and

(3) submit the results of the evaluation to the Secretary.

(b) AVAILABILITY.—The Secretary shall make the results of each State's evaluation under subsection (a) available to other States and local educational agencies.

(c) LOCAL EDUCATIONAL AGENCY REPORTING.—On an annual basis, each eligible local educational agency and eligible entity receiving a subgrant under section 104(a) shall report to the State educational agency and to the public on—

(1) the performance on the school performance indicators (as described in section 103(a)(4)(B)(vi)) for each eligible school served by the eligible local educational agency or eligible entity, in the aggregate and disaggregated by the subgroups described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)); and

(2) the use of funds by the eligible local educational agency or eligible entity and each such school.

(d) STATE EDUCATIONAL AGENCY REPORTING.—On an annual basis, each State educational agency receiving grant funds under this title shall report to the Secretary and to the public on—

(1) the performance of eligible schools in the State, based on the school performance indicators described in section 103(a)(4)(B)(vi), in the aggregate and disaggregated by the subgroups described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)); and

(2) the use of the funds by each eligible local educational agency in the State and by each eligible school.

(e) REPORT TO CONGRESS.—Every 2 years, the Secretary shall report to the public and to Congress—

(1) a summary of the State reports under subsection (d); and

(2) the use of funds by each State under this title.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $1,000,000,000 for fiscal year 2010 and such sums as may be necessary for each of the 5 succeeding fiscal years.

TITLE II—RESEARCH RECOMMENDATIONS

SEC. 201. PURPOSE.

The purpose of this title is to facilitate the generation, dissemination, and application of research needed to identify and implement effective practices that lead to continual student learning and high academic achievement in the middle grades.

SEC. 202. RESEARCH RECOMMENDATIONS.

(a) STUDY ON PROMISING PRACTICES.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall enter into a contract with the Center for Education of the National Academies to study and identify promising practices for the improvement of middle grades education.

(2) CONTENT OF STUDY.—The study described in paragraph (1) shall identify promising practices currently being implemented for the improvement of middle grades education. The study shall be conducted in an open and transparent way that provides interim information to the public about criteria being used to identify—

(A) promising practices;

(B) the practices that are being considered; and

(C) the kind of evidence needed to document effectiveness.

(3) REPORT.—The contract entered into pursuant to this subsection shall require that the Center for Education of the National Academies submit to the Secretary, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and Labor of the House of Representatives a final report regarding the study conducted under this subsection not later than 1 year after the date of the commencement of the contract.

(4) PUBLICATION.—The Secretary shall make public and post on the website of the Department of Education the findings of the study conducted under this subsection.

(b) SYNTHESIS STUDY OF EFFECTIVE TEACHING AND LEARNING IN MIDDLE GRADES.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall enter into a contract with the Center for Education of the National Academies to review existing research on middle grades education, and on factors that might lead to increased effectiveness and enhanced innovation in middle grades education.

(2) CONTENT OF STUDY.—The study described in paragraph (1) shall review research on education programs, practices, and policies, as well as research on the cognitive, social, and emotional development of children in the middle grades age range, in order to provide an enriched understanding of the factors that might lead to the development of innovative and effective middle grades programs, practices, and policies. The study shall focus on—

(A) the areas of curriculum, instruction, and assessment (including additional supports for students who are below grade level in reading, writing, mathematics, and science, and the identification of students with disabilities) to better prepare all students for subsequent success in high school, college, and cognitively challenging employment;

(B) the quality of, and supports for, the teacher workforce;

(C) aspects of student behavioral and social development, and of social interactions within schools that affect the learning of academic content;

(D) the ways in which schools and local educational agencies are organized and operated that may be linked to student outcomes;

(E) how development and use of early warning indicator and intervention systems can reduce risk factors for dropping out of school and low academic achievement; and

(F) identification of areas where further research and evaluation may be needed on these topics to further the development of effective middle grades practices.

(3) REPORT.—The contract entered into pursuant to this subsection shall require that the Center for Education of the National Academies submit to the Secretary, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and Labor of the House of Representatives a final report regarding the study conducted under this subsection not later than 2 years after the date of commencement of the contract.

(4) PUBLICATION.—The Secretary shall make public and post on the website of the Department of Education the findings of the study conducted under this subsection.

(c) OTHER ACTIVITIES.—The Secretary shall carry out each of the following:

(1) Create a national clearinghouse, in coordination with entities such as What Works and the Doing What Works Clearinghouses, for research in best practices in the middle grades and in the approaches that successfully take those best practices to scale in schools and local educational agencies.

(2) Create a national middle grades database accessible to educational researchers, practitioners, and policymakers that identifies school, classroom, and system-level factors that facilitate or impede student academic achievement in the middle grades.

(3) Require the Institute of Education Sciences to develop a strand of field-initiated and scientifically valid research designed to enhance performance of schools serving middle grades students, and of middle grades students who are most at risk of educational failure, which may be coordinated with the regional educational laboratories established under section 174 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9564), institutions of higher education, agencies recognized for their research work that has been published in peer-reviewed journals, and organizations that have such regional educational laboratories. Such research shall target specific issues such as—

(A) effective practices for instruction and assessment in mathematics, science, technology, and literacy;

(B) academic interventions for adolescent English language learners;

(C) school improvement programs and strategies for closing the academic achievement gap;

(D) evidence-based or, when available, scientifically valid professional development planning targeted to improve pedagogy and student academic achievement;

(E) the effects of increased learning or extended school time in the middle grades; and

(F) the effects of decreased class size or increased instructional and support staff.

(4) Strengthen the work of the existing national research and development centers under section 133(c) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9533(c)), as of the date of enactment of this Act, by adding an educational research and development center dedicated to addressing—

(A) curricular, instructional, and assessment issues pertinent to the middle grades (such as mathematics, science, technological fluency, the needs of English language learners, and students with disabilities);

(B) comprehensive reforms for low-performing middle grades; and

(C) other topics pertinent to improving the academic achievement of middle grades students.

(5) Provide grants to nonprofit organizations, for-profit organizations, institutions of higher education, and others to partner with State educational agencies and local educational agencies to develop, adapt, or replicate effective models for turning around low-performing middle grades.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this title $100,000,000 for fiscal year 2010 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) RESERVATIONS.—From the total amount made available to carry out this title, the Secretary shall reserve—

(1) 2.5 percent for the studies described in subsections (a) and (b) of section 202;

(2) 5 percent for the clearinghouse described in section 202(c)(1);

(3) 5 percent for the database described in section 202(c)(2);

(4) 42.5 percent for the activities described in section 202(c)(3);

(5) 15 percent for the activities described in section 202(c)(4); and

(6) 30 percent for the activities described in section 202(c)(5).

By Mr. WYDEN (for himself and Mr. MERKLEY):

S. 1369. A bill to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River in the State of Oregon, as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am introducing a bill to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River as Wild and Scenic. I am pleased to be introducing this legislation with my colleague from Oregon, Senator MERKLEY. This legislation has already been introduced by Representative SCHRADER in the House, who is a champion for protecting the river. The Molalla River Wild and Scenic Rivers Act of 2009 will designate an approximately 15.1-mile segment of the Molalla River, and an approximately 6.2-mile segment of Table Rock Fork Molalla River as a recreational river under the Wild and Scenic Rivers Act.

The Molalla River Wild and Scenic Rivers Act protects a popular Oregon destination that provides abundant recreational activities all of which take place among the abundant wildlife that call this area home. The scenic beauty of the Molalla River provides a backdrop for hiking, mountain biking, camping, and horseback riding, while the waters of the river are a popular destination for fishing, kayaking, and whitewater rafting enthusiasts. My bill would not only preserve this area as a recreation destination, but would also protect the river habitat of the Chinook salmon and Steelhead trout,

along with the wildlife habitat surrounding the river, home to the northern spotted owl, the pileated woodpecker, golden and bald eagles, deer, elk, the pacific giant salamander, and many others.

The Molalla River is not only an important habitat for wildlife and a popular northwest recreation destination, but it is also the source of clean drinking water for the towns of Molalla and Canby, Oregon. Protecting the approximately 21.3 miles of the Molalla River will provide the residents of these Oregon towns with the assurance that they will continue to receive clean drinking water, and will provide all the people of the Pacific Northwest and beyond the knowledge that this important natural resource will be preserved for continued enjoyment for years to come.

I want to express my thanks to the Molalla River Alliance—a coalition of more than 45 organizations that recognize that this river is a jewel. Michael Moody, the President of this Alliance, made sure that irrigators, city councilors, the mayor, businesses and environmentalists all came together on this. I look forward to working with Senator MERKLEY, Representative SCHRADER, and the bill's supporters to advance this legislation to the President's desk.

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

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

S. 1369

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 ''Molalla River Wild and Scenic Rivers Act''.

SEC. 2. DESIGNATION OF WILD AND SCENIC RIVER SEGMENTS, MOLALLA RIVER, OREGON.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

''(208) MOLALLA RIVER, OREGON.—

''(A) IN GENERAL.—The following segments in the State of Oregon, to be administered by the Secretary of the Interior as a recreational river:

''(i) MOLALLA RIVER.—The approximately 15.1-mile segment from the southern boundary line of T. 7 S., R. 4 E., sec. 19, downstream to the edge of the Bureau of Land Management boundary in T. 6 S., R. 3 E., sec. 7.

''(ii) TABLE ROCK FORK MOLALLA RIVER.—The approximately 6.2-mile segment from the easternmost Bureau of Land Management boundary line in the NE¼ sec. 4, T. 7 S., R. 4 E., downstream to the confluence with the Molalla River.

''(B) WITHDRAWAL.—Subject to valid existing rights, the Federal land within the boundaries of the river segments designated by subparagraph (A) is withdrawn from all forms of—

''(i) entry, appropriation, or disposal under the public land laws;

''(ii) location, entry, and patent under the mining laws; and

''(iii) disposition under all laws relating to mineral and geothermal leasing or mineral materials.

''(C) EFFECT OF DESIGNATION.—

''(i) IN GENERAL.—The designation of the river segments under this paragraph shall not affect valid existing rights (including rights-of-way and easements) in, through, and to the land designated as part of the Wild and Scenic River System under this paragraph.

''(ii) PRIVATE LAND.— Nothing in this paragraph requires management of private land within the basins of the river segments designated under this paragraph in a manner different than that required under State law, including Chapter 527 of the Oregon Revised Statutes.''.

By Mr. NELSON, of Florida (for himself, Mr. ENSIGN, and Mr. MARTINEZ):

S. 1371. A bill to amend the Internal Revenue Code of 1986 to provide for clean renewable water supply bonds; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I rise today to introduce, with my colleagues Senators ENSIGN and MARTINEZ, the Clean Renewable Water Supply Bond Act of 2009.

While many of us do not think twice when we turn on the faucet, State and local authorities anticipate widespread water shortages in the near future, and the consequences may be severe, if not catastrophic. Rising demand and dwindling sources of fresh water raise serious questions about our ability to ensure every community has access to a clean, safe, and affordable water supply. The U.S. population has grown more than 50 percent in the last 30 years. At the same time, the amount of water used by each of us has tripled. In many States, particularly fast-growing States, water consumption nears or exceeds the renewable water supply.

Several parts of the country have experienced drought or near-drought conditions requiring authorities to impose water user strictions. According to a comprehensive Government Accountability Office study, even under normal conditions, 36 States expect water shortages by 2013. Compounding the problem, the Environmental Protection Agency estimates a shortfall of $224 billion in funding for water projects over the next 20 years.

Water shortages also have implications for the environment. The Everglades is a prime example. Over the years, diminished flows into the Everglades have reduced the ecosystem to half its original size. As a result of less water, the Everglades experienced a 90 percent reduction in the population of wading birds. The effects of climate change—including salt water intrusion and higher sea levels—mean our recent experiences will only intensify over the next couple decades.

There is a growing consensus on the need for new investments in water supply and treatment projects. Advanced technologies offer extraordinary promise and can provide new sources of clean water, but the cost of the initial capital investment is often prohibitive. States are primarily responsible for managing the development, allocation, and use of freshwater supplies. A single advanced water project can cost as much as $400 million, an amount difficult to finance with conventional tax-exempt bonds, which require principal and interest payments by the issuer.

The bipartisan legislation we are introducing today would authorize public water agencies at the State and local level to issue tax credit bonds as a financing vehicle for innovative new water supply technologies. The legislation would create a new category of Clean Renewable Water Supply Bonds, to finance innovative projects such as water recycling, desalination, and groundwater contamination clean-up. Tax credit bonds such as CREWS provide a deeper and more efficient subsidy than tax-exempt bonds. The Federal Government provides a tax credit to the bondholder in lieu of an interest payment. As a result, a public agency financing a $100 million project with CREWS would save an estimated $62 million in interest payments over the life of the bond. The issuer remains responsible for repayment of the principal. The bonds would be issued by public agencies in the same way that they issue conventional tax-exempt bonds.

A project would not be eligible for CREWS unless the issuer has received all Federal and State regulatory approvals necessary to construct the project. Qualifying projects must be designed to comply with regulations that minimize negative environmental impacts. In order to limit the revenue loss to $1 billion over ten years, the bill caps the amount of annual CREWS bonding authority.

Tax credit bonds are a proven and effective financing mechanism. Congress has authorized the issuance of tax credit bonds for the construction of inner city schools, renewable energy projects, energy conservation measures, forestry conservation programs, and post-Katrina and Rita reconstruction. According to an analysis prepared for the New Water Supply Coalition, an investment of $6.2 billion in construction for desalination, recycling and groundwater recovery would generate a national economic impact of $19.5 billion and approximately 143,000 jobs. Most importantly, if enacted and fully funded, the Coalition projects that over 1.8 billion gallons of water per day would be created by the new investment resulting from the Clean Renewable Water Supply Bond Act—enough new water to meet the needs of over four million families of four.

Addressing the challenges of our growing water needs will require a concerted effort that involves all levels of government—Federal, State, and local. The Clean Renewable Water Supply Bond Act would create an effective tool for the shared Federal-State financing of advanced, innovative clean water supply projects. I encourage my colleagues to support the legislation.

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

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

S. 1371

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 Renewable Water Supply Bond Act of 2009''.

SEC. 2. CLEAN RENEWABLE WATER SUPPLY BONDS.

(a) IN GENERAL.—Subpart I of Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 54G. CLEAN RENEWABLE WATER SUPPLY BONDS.

''(a) CLEAN RENEWABLE WATER SUPPLY BONDS.—For purposes of this subpart, the term 'clean renewable water supply bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by qualified borrowers for 1 or more qualified projects,

''(2) the bond is issued by a qualified issuer,

''(3) the issuer designates such bond for purposes of this section, and

''(4) in the case of a bond issued by a qualified issuer before 2019, the bond is issued—

''(A) pursuant to an allocation by the Secretary to such issuer of a portion of the national clean renewable water supply bond limitation under subsection (b), and

''(B) not later than 6 months after the date that such qualified issuer receives an allocation under subsection (b).

''Any allocation under subsection (b) not used within the 6-month period described in paragraph (4)(B) shall be applied to increase the national clean renewable water supply bond limitation for the next succeeding application period under subsection (b)(2)(B).

''(b) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—There is a national clean renewable water supply bond limitation for each calendar year before 2019. Such limitation is—

''(A) $0 for 2009,

''(B) $100,000,000 for 2010,

''(C) $150,000,000 for 2011,

''(D) $200,000,000 for 2012,

''(E) $250,000,000 for 2013,

''(F) $500,000,000 for 2014,

''(G) $750,000,000 for 2015,

''(H) $1,000,000,000 for 2016,

''(I) $1,500,000,000 for 2017, and

''(J) $1,750,000,000 for 2018.

''(2) ALLOCATION OF LIMITATION.—

''(A) IN GENERAL.—The limitation under paragraph (1) shall be allocated by the Secretary among qualified projects as provided in this paragraph.

''(B) METHOD OF ALLOCATION.—For each calendar year after 2009 for which there is a national clean renewable water supply bond limitation, the Secretary shall publish a notice soliciting applications by qualified issuers for allocations of such limitation to qualified projects. Such notice shall specify a 3-month application period in the calendar year during which the Secretary will accept such applications. Within 30 days after the end of such application period, and subject to the requirements of subparagraph (C), the Secretary shall allocate such limitation to qualified projects on a first-come, first-served basis, based on the order in which such applications are received from qualified issuers.

''(C) ALLOCATION REQUIREMENTS.—

''(i) CERTIFICATIONS REGARDING REGULATORY APPROVALS.—No portion of the national clean renewable water supply bond limitation shall be allocated to a qualified project unless the qualified issuer has certified in its application for such allocation that as of the date of such application the qualified issuer or qualified borrower has received all Federal and State regulatory approvals necessary to construct the qualified project.

''(ii) RESTRICTION ON ALLOCATIONS TO LARGE PROJECTS OR TO INDIVIDUAL PROJECTS.—

''(I) IN GENERAL.—Except as provided in subclause (III), for any calendar year the Secretary shall not allocate more than 60 percent of the national clean renewable water supply bond limitation to 1 or more large projects, more than 18 percent of such limitation to any single project that is a large project, or more than 12 percent of such limitation to any single project that is not a large project.

''(II) DEFINITION OF LARGE PROJECT.—For purposes of subclause (I), the term 'large project' means a qualified project that is designed to deliver more than 10,000,000 gallons of water per day.

''(III) EXCEPTION TO RESTRICTION.—Subclause (I) shall not apply to the extent its application would cause any portion of the national clean renewable water supply bond limitation for the calendar year to remain unallocated, based on applications for allocations of such limitation received by the Secretary during the application period referred to in subparagraph (B).

''(3) CARRYOVER OF UNUSED LIMITATION.—If the clean renewable water supply bond limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess.

''(c) MATURITY LIMITATION.—

''(1) IN GENERAL.—A bond shall not be treated as a clean renewable water supply bond if the maturity of such bond exceeds 20 years.

''(2) COORDINATION WITH SECTION 54A.—The maturity limitation in section 54A(d)(5) shall not apply to any clean renewable water supply bond.

''(d) REFINANCING RULES.—For purposes of paragraph (a)(1), a qualified project may be refinanced with proceeds of a clean renewable water supply bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

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

''(1) GOVERNMENTAL BODY.—The term 'governmental body' means any State or Indian tribal government, or any political subdivision thereof.

''(2) LOCAL WATER COMPANY.—The term 'local water company' means any entity responsible for providing water service to the general public (including electric utility, industrial, agricultural, commercial, or residential users) pursuant to State or tribal law.

''(3) QUALIFIED BORROWER.—The term 'qualified borrower' means a governmental body or a local water company.

''(4) QUALIFIED DESALINATION FACILITY.—The term 'qualified desalination facility' means any facility that is used to produce new water supplies by desalinating seawater, groundwater, or surface water if the facility's source water includes chlorides or total dissolved solids that, either continuously or seasonally, exceed maximum permitted levels for primary or secondary drinking water under Federal or State law (as in effect on the date of issuance of the issue).

''(5) QUALIFIED GROUNDWATER REMEDIATION FACILITY.—The term 'qualified groundwater remediation facility' means any facility that is used to reclaim contaminated or naturally impaired groundwater for direct delivery for potable use if the facility's source water includes constituents that exceed maximum contaminant levels regulated under the Safe Drinking Water Act (as in effect on the date of the enactment of this section).

''(6) QUALIFIED ISSUER.—The term 'qualified issuer' means—

''(A) a governmental body, or

''(B) in the case of a State or political subdivision thereof (as defined for purposes of section 103), any entity qualified to issue tax-exempt bonds under section 103 on behalf of such State or political subdivision.

''(7) QUALIFIED PROJECT.—

''(A) IN GENERAL.—The term 'qualified project' means any facility owned by a qualified borrower which is a—

''(i) qualified desalination facility,

''(ii) qualified recycled water facility,

''(iii) qualified groundwater remediation facility, or

''(iv) facility that is functionally related or subordinate to a facility described in clause (i), (ii), or (iii).

''(B) ENVIRONMENTAL IMPACT.—A project shall not be treated as a qualified project under subparagraph (A) unless such project is designed to comply with regulations issued under subsection (f) relating to the minimization of the environmental impact of the project.

''(8) QUALIFIED RECYCLED WATER FACILITY.—

''(A) IN GENERAL.—The term 'qualified recycled water facility' means any wastewater treatment or distribution facility which—

''(i) exceeds the requirements for the treatment and disposal of wastewater under the Clean Water Act and any other Federal or State water pollution control standards for the discharge and disposal of wastewater to surface water, land, or groundwater (as such requirements and standards are in effect on the date of issuance of the issue), and

''(ii) except as provided in subparagraph (B), is used to reclaim wastewater produced by the general public (including electric utility, industrial, agricultural, commercial, or residential users) to the extent such reclaimed wastewater is used for a beneficial use that the issuer reasonably expects as of the date of issuance of the issue otherwise would have been satisfied with potable water supplies.

''(B) IMPERMISSIBLE USES.—Reclaimed wastewater is not used for a use described in subparagraph (A)(ii) to the extent such reclaimed wastewater is—

''(i) discharged into a waterway or used to meet waterway discharge permit requirements and not used to supplement potable water supplies,

''(ii) used to restore habitat,

''(iii) used to provide once-through cooling for an electric generation facility, or

''(iv) intentionally introduced into the groundwater and not used to supplement potable water supplies.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section, including regulations promulgated in consultation with the Administrator of the Environmental Protection Agency to ensure the environmental impact of qualified facilities is minimized.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of subparagraph (D), by inserting ''or'' at the end of subparagraph (E), and by inserting after subparagraph (E) the following new subparagraph:

''(F) a clean renewable water supply bond,''.

(2) Subparagraph (C) of section 54A(d)(2) of such Code is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding at the end the following new clause:

''(vi) in the case of a clean renewable water supply bond, a purpose specified in section 54G(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 54G. Clean renewable water supply bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

By Mr. LEAHY (for himself, Mr. COCHRAN, and Mr. DODD):

S. 1372. A bill to provide a vehicle maintenance building to house the Smithsonian Institution's Vehicle Maintenance Branch at the Suitland Collections Center in Suitland, Maryland; to the Committee on Rules and Administration.

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

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

S. 1372

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

SECTION 1. VEHICLE MAINTENANCE BUILDING.

The Board of Regents of the Smithsonian Institution is authorized to plan, design, and construct a vehicle maintenance building at its Vehicle Maintenance Branch in Suitland, Maryland, to house, maintain, and repair Smithsonian vehicles and transportation equipment.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $4,000,000 for fiscal year 2010 for the purposes described in section 1.

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

S. 1373. A bill to provide for Federal agencies to develop public access policies relating to research conducted by employees of that agency; or from funds administered by that agency to the Committee on Homeland Security and Governmental Affairs.

Mr. CORNYN. Mr. President, I rise to introduce the Federal Research Public Access Act. I am very pleased to be joined again by my good friend and colleague, Senator JOE LIEBERMAN, who has remained dedicated to seeing this important legislation passed. This bipartisan bill is the same legislation we introduced in the 109th Congress. The purpose of this legislation is to ensure American taxpayers' dollars are spent wisely, which is even more important now in this time of fiscal tension.

To put things in perspective, the Federal Government spends upwards of $55 billion on investments for basic and applied research every year. There are approximately 11 departments/agencies that are the recipients of these investments, including: the National Institutes of Health, National Science Foundation, NASA, the Department of Energy, the Department of Defense, and the Department of Agriculture. These departments/agencies then distribute the taxpayers' money to fund research which is typically conducted by outside researchers working for universities, health care systems, and other groups.

While this research is undoubtedly necessary and is beneficial to America, it remains the case that not all Americans are capable of experiencing these benefits firsthand. Usually the results of the researchers are published in academic journals. Despite the fact that the research was paid for by Americans' tax dollars, most citizens are unable to attain timely access to the wealth of information that the research provides.

Some Federal agencies, most notably the NIH, have recognized this lack of availability and have proceeded to take positive steps in the right direction by requiring that those articles based on government-funded research be easily accessible to the public in a timely manner. I am proud to report that the NIH's public access policy has been a success over the past few years. By the NIH implementing a groundbreaking public access policy, there has been strong progress in making the NIH's federally funded research available to the public, and has helped to energize this debate.

Although this has surely been an encouraging and important step forward, Senator LIEBERMAN and I believe there is more that can and must be done, as this is just a small part of the research funded by the Federal Government.

With that in mind, Senator LIEBERMAN and I find it necessary to reintroduce the Federal Research Public Access Act that will build on and refine the work done by the NIH and require that the Federal Government's leading underwriters of research adopt meaningful public access policies. Our legislation provides a simple and practical solution to giving the public access to the research it funds.

Our bill will ask all Federal departments and agencies that invest $100 million or more annually in research to develop a public access policy. Our goal is to have the results of all government-funded research to be disseminated and made available to the largest possible audience. By speeding access to this research, we can help promote the advancement of science, accelerate the pace of new discoveries and innovations, and improve the lives and welfare of people at home and abroad.

Each policy that these departments and agencies develop will require that articles resulting from federal funding must be presented in some publicly accessible archive within six months of publication. In doing so, the American taxpayers will have guaranteed access to the latest research, ensuring that they do not have to pay for the same research twice—first to conduct it and then again to view the results.

This simple legislation will provide our government with an opportunity to better leverage our investment in research and in turn ensure a greater return on that investment. All Americans stand to benefit from this bill, including patients diagnosed with a disease who will have the ability to use the Internet to read the latest articles in their entirety concerning their prognosis, students who will be able to find full abundant research as they further their education, or researchers who will have their findings more broadly evaluated which will lead to further discovery and innovation.

While a comprehensive competitiveness agenda is still a work-in-progress, this legislation is good step forward. Providing public access to cutting-edge scientific information is one way we can encourage public interest in these fields and help accelerate the pace of discovery and innovation. In promoting this legislation, I hope to guarantee that students, researchers, and every American can access the published results of the research they funded.

By Mr. ROCKEFELLER:

S. 1377. A bill provide for an automatic increase in the federal matching rate for the Medicaid program during periods of national economic downturn to help States cope with increases in Medicaid costs; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation that will guarantee that Medicaid remains available as a critical safety-net for working families in the event of another economic downturn. Medicaid is consistently the first program slated for cuts during a State budget crisis. My legislation would establish an automatic trigger for a temporary FMAP increase so that state Medicaid assistance becomes available in a timely and targeted manner during significant economic challenges.

State cutbacks during the 2001–2003 recession eliminated public health coverage for more than one million Americans. According to the Kaiser Commission on Medicaid and the Uninsured, between fiscal years 2002 and 2005, the loss of revenue led all 50 States to reduce Medicaid provider payment rates and implement prescription drug cost controls, 38 States to reduce Medicaid eligibility and 34 States to reduce benefits. Many more Americans would have lost coverage if Congress had not provided states with $20 billion in Federal aid in 2003.

Now, once again, the country is facing economic challenges unlike anything else we have faced since the Great Depression. Fortunately, the American Recovery and Reinvestment Act, ARRA, included $87 billion in Federal Medicaid relief for States. It is estimated that through this temporary FMAP increase, my State of West Virginia will receive nearly $450 million in

Federal funding over the next 2 years to help meet the existing and growing enrollment needs in Medicaid. This temporary FMAP increase will protect the health care coverage of nearly 400,000 West Virginians, and approximately 58 million Americans, as this country works to pull itself out of the current economic recession.

After the last economic downturn, I joined a bipartisan group of my colleagues in requesting that the Government Accountability Office, GAO, study and report on options to protect Medicaid during future recessions. In response to this request, the GAO issued a report GAO–07–97, entitled Medicaid: Strategies to Help States Address Increased Expenditures during Economic Downturn and developed a State and local government model that can simulate the fiscal outcomes for this sector in the aggregate for several decades into the future.

The legislation I am introducing today is based on the findings of this GAO study. As we have seen in the past two recessions, waiting for Congress to act to provide necessary Federal Medicaid relief results in harmful delays in families getting the assistance they need. I believe that there should be an automatic economic trigger for State fiscal relief—independent of Congressional intervention—during future recessions. My legislation would create such a trigger for a temporary FMAP increase.

State fiscal relief would become available when the average unemployment rate has increased by at least 10 percent in at least 23 States. This type of automatic trigger would provide states with the timely, targeted, and temporary Federal Medicaid assistance that they need in the face of a significant economic downturn. More importantly, it would help Americans maintain access to health care in tough times.

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

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

S. 1377

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

SECTION 1. AUTOMATIC INCREASE IN THE FEDERAL MEDICAL ASSISTANCE PERCENTAGE DURING PERIODS OF NATIONAL ECONOMIC DOWNTURN.

(a) NATIONAL ECONOMIC DOWNTURN ASSISTANCE FMAP.—

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

(A) in subsection (b), in the first sentence—

(i) by striking ''and (4)'' and inserting ''(4)''; and

(ii) by inserting ''and (5) with respect to each fiscal year quarter other than the first quarter of a national economic downturn assistance period described in subsection (y)(1), the Federal medical assistance percentage for any State described in subsection (y)(2) shall be equal to the national economic downturn assistance FMAP determined for the State for the quarter under subsection (y)(3)'' before the period; and

(B) by adding at the end the following:

''(y) NATIONAL ECONOMIC DOWNTURN ASSISTANCE FMAP.—For purposes of clause (5) of the first sentence of subsection (b):

''(1) NATIONAL ECONOMIC DOWNTURN ASSISTANCE PERIOD.—A national economic downturn assistance period described in this paragraph—

''(A) begins with the first fiscal year quarter for which the Secretary determines that for at least 23 States, the rolling average unemployment rate for that quarter has increased by at least 10 percent over the corresponding quarter for the most recent preceding 12-month period for which data are available (in this subsection referred to as the 'trigger quarter'); and

''(B) ends with the first succeeding fiscal year quarter for which the Secretary determines that less than 23 States have a rolling average unemployment rate for that quarter with an increase of at least 10 percent over the corresponding quarter for the most recent preceding 12-month period for which data are available.

''(2) ELIGIBLE STATE.—A State described in this paragraph is a State for which the Secretary determines that the rolling average unemployment rate for the State for any quarter occurring during a national economic downturn assistance period described in paragraph (1) has increased over the corresponding quarter for the most recent preceding 12-month period for which data are available.

''(3) DETERMINATION OF NATIONAL ECONOMIC DOWNTURN ASSISTANCE FMAP.—

''(A) IN GENERAL.—The national economic downturn assistance FMAP for a fiscal year quarter determined with respect to a State under this paragraph is equal to the Federal medical assistance percentage for the State for that quarter increased by the number of percentage points determined by—

''(i) dividing—

''(I) the Medicaid additional unemployed increased cost amount determined under subparagraph (B) for the quarter; by

''(II) the State's total Medicaid quarterly spending amount determined under subparagraph (C) for the quarter; and

''(ii) multiplying the quotient determined under clause (i) by 100.

''(B) MEDICAID ADDITIONAL UNEMPLOYED INCREASED COST AMOUNT.—For purposes of subparagraph (A)(i)(I), the Medicaid additional unemployed increased cost amount determined under this subparagraph with respect to a State and a quarter is the product of the following:

''(i) STATE INCREASE IN ROLLING AVERAGE NUMBER OF UNEMPLOYED INDIVIDUALS FROM THE BASE QUARTER OF UNEMPLOYMENT.—

''(I) IN GENERAL.—The amount determined by subtracting the rolling average number of unemployed individuals in the State for the base unemployment quarter for the State determined under subclause (II) from the rolling average number of unemployed individuals in the State for the quarter.

''(II) BASE UNEMPLOYMENT QUARTER DEFINED.—

''(aa) IN GENERAL.—For purposes of subclause (I), except as provided in item (bb), the base quarter for a State is the quarter with the lowest rolling average number of unemployed individuals in the State in the 12-month period preceding the trigger quarter for a national economic downturn assistance period described in paragraph (1).

''(bb) EXCEPTION.—If the rolling average number of unemployed individuals in a State for a quarter occurring during a national economic downturn assistance period described in paragraph (1) is less than the rolling average number of unemployed individuals in the State for the base quarter determined under item (aa), that quarter shall be treated as the base quarter for the State for such national economic downturn assistance period.

''(ii) NATIONAL AVERAGE AMOUNT OF ADDITIONAL FEDERAL MEDICAID SPENDING PER ADDITIONAL UNEMPLOYED INDIVIDUAL.—In the case of—

''(I) a calendar quarter occurring in fiscal year 2012, $350; and

''(II) a calendar quarter occurring in any succeeding fiscal year, the amount applicable under this clause for calendar quarters occurring during the preceding fiscal year, increased by the annual percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average), as rounded up in an appropriate manner.

''(iii) STATE NONDISABLED, NONELDERLY ADULTS AND CHILDREN MEDICAID SPENDING INDEX.—

''(I) IN GENERAL.—With respect to a State, the quotient (not to exceed 1.00) of—

''(aa) the State expenditure per person in poverty amount determined under subclause (II); divided by—

''(bb) the National expenditure per person in poverty amount determined under subclause (III).

''(II) STATE EXPENDITURE PER PERSON IN POVERTY AMOUNT.—For purposes of subclause (I)(aa), the State expenditure per person in poverty amount is the quotient of—

''(aa) the total amount of annual expenditures by the State for providing medical assistance under the State plan to nondisabled, nonelderly adults and children; divided by

''(bb) the total number of nonelderly adults and children in poverty who reside in the State, as determined under paragraph (4)(A).

''(III) NATIONAL EXPENDITURE PER PERSON IN POVERTY AMOUNT.—For purposes of subclause (I)(bb), the National expenditure per person in poverty amount is the quotient of—

''(aa) the sum of the total amounts determined under subclause (II)(aa) for all States; divided by

''(bb) the sum of the total amounts determined under subclause (II)(bb) for all States.

''(C) STATE'S TOTAL MEDICAID QUARTERLY SPENDING AMOUNT.—For purposes of subparagraph (A)(i)(II), the State's total Medicaid quarterly spending amount determined under this subparagraph with respect to a State and a quarter is the amount equal to—

''(i) the total amount of expenditures by the State for providing medical assistance under the State plan to all individuals enrolled in the plan for the most recent fiscal year for which data is available; divided by

''(ii) 4.

''(4) DATA.—In making the determinations required under this subsection, the Secretary shall use, in addition to the most recent available data from the Bureau of Labor Statistics Local Area Unemployment Statistics for each State referred to in paragraph (5), the most recently available—

''(A) data from the Bureau of the Census with respect to the number of nonelderly adults and children who reside in a State described in paragraph (2) with family income below the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved, (or, if the Secretary determines it appropriate, a multiyear average of such data);

''(B) data reported to the Secretary by a State described in paragraph (2) with respect to expenditures for medical assistance under the State plan under this title for nondisabled, nonelderly adults and children; and

''(C) econometric studies of the responsiveness of Medicaid enrollments and spending to changes in rolling average unemployment rates and other factors, including State spending on certain Medicaid populations.

''(5) DEFINITION OF 'ROLLING AVERAGE NUMBER OF UNEMPLOYED INDIVIDUALS', 'ROLLING AVERAGE UNEMPLOYMENT RATE'.—In this subsection, the term—

''(A) 'rolling average number of unemployed individuals' means, with respect to a calendar quarter and a State, the average of the 12 most recent months of seasonally adjusted unemployment data for each State;

''(B) 'rolling average unemployment rate' means, with respect to a calendar quarter and a State, the average of the 12 most recent monthly unemployment rates for the State; and

''(C) 'monthly unemployment rate' means, with respect to a State, the quotient of—

''(i) the monthly seasonally adjusted number of unemployed individuals for the State; divided by

''(ii) the monthly seasonally adjusted number of the labor force for the State,

using the most recent data available from the Bureau of Labor Statistics Local Area Unemployment Statistics for each State.

''(6) INCREASE IN CAP ON PAYMENTS TO TERRITORIES.—With respect to any fiscal year quarter for which the national economic downturn assistance Federal medical assistance percentage applies to Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa, the amounts otherwise determined for such commonwealth or territory under subsections (f) and (g) of section 1108 shall be increased by such percentage of such amounts as the Secretary determines is equal to twice the average increase in the national economic downturn assistance FMAP determined for all States described in paragraph (2) for the quarter.

''(7) SCOPE OF APPLICATION.—The national economic downturn assistance FMAP shall only apply for purposes of payments under section 1903 for a quarter and shall not apply with respect to—

''(A) disproportionate share hospital payments described in section 1923;

''(B) payments under title IV or XXI; or

''(C) any payments under this title that are based on the enhanced FMAP described in section 2105(b).

''(8) ADDITIONAL REQUIREMENT FOR CERTAIN STATES.—In the case of a State described in paragraph (2) that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures required under section 1902(a)(2), the State shall not require that such political subdivisions pay for any fiscal year quarters occurring during a national economic downturn assistance period a greater percentage of the non-Federal share of such expenditures, or a greater percentage of the non-Federal share of payments under section 1923, than the respective percentage that would have been required by the State under State law in effect on the first day of the fiscal year quarter occurring immediately prior to the trigger quarter for the period.''.

(2) EFFECTIVE DATE; NO RETROACTIVE APPLICATION.—The amendments made by paragraph (1) take effect on January 1, 2012. In no event may a State receive a payment on the basis of the national economic downturn assistance Federal medical assistance percentage determined for the State under section 1905(y)(3) of the Social Security Act for amounts expended by the State prior to January 1, 2012.

(b) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall analyze the previous periods of national economic downturn, including the most recent such period in effect as of the date of enactment of this Act, and the past and projected effects of temporary increases in the Federal medical assistance percentage under the Medicaid program with respect to such periods.

(2) REPORT.—Not later than April 1, 2011, the Comptroller General of the United States shall submit a report to Congress on the results of the analysis conducted under paragraph (1). Such report shall include such recommendations as the Comptroller General determines appropriate for modifying the national economic downturn assistance FMAP established under section 1905(y) of the Social Security Act (as added by subsection (a)) to improve the effectiveness of the application of such percentage in addressing the needs of States during periods of national economic downturn, including recommendations for—

(A) improvements to the factors that begin and end the application of such percentage;

(B) how the determination of such percentage could be adjusted to address State and regional economic variations during such periods; and

(C) how the determination of such percentage could be adjusted to be more responsive to actual Medicaid costs incurred by States during such periods, as well as to the effects of any other specific economic indicators that the Comptroller General determines appropriate.

By Mr. GRASSLEY:

S. 1381. A bill to amend the Internal Revenue Code of 1986 to provide additional tax relief for small businesses, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, President Obama, in his press briefing this past Tuesday, June 23, 2009, made the following statement regarding his assessment of the first four months of the American Recovery and Reinvestment Act: ''I am not satisfied with the progress that we've made.'' I could not agree more with President Obama's assessment. Thus far, the $787 billion American Recovery and Reinvestment Act has fallen short on virtually every one of its advertised effects.

In the abbreviated debate leading up to the consideration of this bill, we constantly heard the mantra from my friends on the other side: JOBS, JOBS, JOBS! This stimulus bill was supposed to create jobs, jobs, jobs, but in the four months since the bill's passage, there are still no jobs in sight.

The architects of this bill made several bold claims in projecting the job effects of the $787 billion stimulus bill. First, they said that its passage would keep the unemployment rate from exceeding 8 percent. Second, they said it was going to create or save 3 to 4 million jobs. And third, they said that 90 percent of the new jobs created would be in the private sector.

So far, in all three of these areas, the actual effects of the stimulus bill have not lived up to the hype. Let us examine each of these areas one by one.

First, the stimulus bill was supposed to keep unemployment at or below 8 percent. In fact, the administration projected that in the absence of stimulus, the unemployment rate would peak at around 8.8 percent. However, four months into this program, the unemployment rate stands at 9.4 percent and rising—higher than the administration projected it would be in the absence of stimulus.

Just listen to President Obama's comments from his June 23rd press briefing to see which direction the unemployment rate is headed: ''I think it's pretty clear now that unemployment will end up going over 10 percent, if you just look at the pattern, because of the fact that even after employers and businesses start investing again and start hiring again, typically it takes a while for that employment number to catch up with economic recovery. And we're still not at actual recovery yet. So I anticipate that this is going to be a difficult, difficult year, a difficult period.''

When asked how high he thought the unemployment rate would go, President Obama responded, ''I am not suggesting that I have a crystal ball. Since you just threw back at us our last prognosis, let's not engage in another one.'' Once again, I have to agree with President Obama's assessment.

As the unemployment rate continues to go up, that means job numbers continue to go down, which brings me to my next point: The administration projected that the stimulus bill would create—or save—between 3 and 4 million jobs by the end of 2010. While we've got a long way to go before the end of 2010, the prospects of the stimulus bill living up to this job creation estimate seem very unlikely. Before we look at the actual job numbers for the past few months from the Department of Labor, let me discuss the source of the administration's projections.

In January, Christina Romer, who is now Chair of the Council of Economic Advisers, and Jared Bernstein, who is now the Chief Economist for the Vice President, released a 14-page paper titled ''The Job Impact of the American Recovery and Reinvestment Act.''

In this document, Romer and Bernstein repeatedly asserted that a package of the size discussed by the President-Elect would be expected to create between three and four million jobs by the end of 2010, which would more than meet the President-Elect's goal of creating or saving 3 million jobs by the end of 2010. In a follow-up report in May, the Council of Economic Advisers attempted to explain how the administration planned on measuring the number of jobs created or saved by the stimulus. This document articulated that all recipients of stimulus funds for government investment will be required to provide ''recipient reports'' estimating the number of jobs retained or created directly by the funds.

Then, to arrive at the total estimate of jobs created or saved by the stimulus, the job numbers from the recipient reports will be added to the administration's estimate of jobs created or saved through tax cuts, State fiscal relief and transfer payments. These estimates will be derived from administration-produced multipliers and macroeconomic modeling.

Sounds pretty simple, don't you think? Unfortunately, there are some problems.

The first problem is that the most accurate part of these job estimates will be from the recipient reports, and since the stimulus bill included approximately $271 billion in government investment spending, these reporting requirements cover just over a third of the $787 billion of stimulus funding.

While the job estimates from these recipient reports should be an accurate representation of actual jobs created by the stimulus, the administration even admits that ''there will likely be inconsistencies and measurement error across the individual reports.''

This leads us to the second problem: for the other ⅔ of the bill, in the administration's own words, ''There is no mechanism available for collecting data on actual job creation from these parts of the Act.'' So, for ⅔ of the bill, the job estimates are basically going to be guesswork from the administration based on mathematical formulas.

Since President Obama's ''First 100 Days'' address on April 29, 2009, we have heard plenty about the 150,000 jobs that have been created or saved so far by the stimulus.

As I have pointed out, it is impossible to verify these numbers with any degree of certainty, and the administration can not even give an estimate of how many of the 150,000 jobs were created and how many were saved.

What we can verify are the actual job numbers produced on a monthly basis by the Department of Labor. According to the Department of Labor, in the 3 full months March, April, and May, following the enactment of the stimulus bill, the U.S. economy has lost over 1.5 million jobs. In the first 5 months of 2009, the U.S. economy has lost 2.9 million jobs. These are the painful numbers that really matter.

As Jared Bernstein, Chief Economist for the Vice President, said on June 8, 2009, ''Most importantly from the perspective of American families, the nation's employers are still shedding jobs on net.''

So, the advertised effect of the stimulus on unemployment was clearly wrong, and the job claims resulting from the stimulus are unverifiable. Now, how about the claim suggesting that 90 percent of the jobs created by the stimulus will be in the private sector?

To be clear, this claim was first made in Romer and Bernstein's January report, and the President himself has repeated this assertion. Unfortunately, this projection—like the first two—is missing the mark by a long shot.

Let's look at the actual data from the Department of Labor once again. In the first three months since the stimulus bill has been the law of the land, the private sector has lost nearly 1.6 million jobs. In those same 3 months, government payrolls have actually expanded by 81,000 jobs. Similarly, in the first 5 months of 2009, while the private sector has lost over 3 million jobs, the government has gained 96,000 jobs.

While I am encouraged to see at least one sector of the economy experiencing job gains, I don't expect that the administration's projection of 90 percent of stimulus jobs being in the private sector will be realized. The administration has promised that 600,000 additional public sector jobs will be created or saved this summer. While an increase of 600,000 government jobs would certainly be a positive development if it comes to pass, it does raise concerns as to whether the government will be the only winner from the stimulus bill.

My point today, Mr. President, is not to berate the administration or those who voted for this bill.

My point is, first, to note the conspicuous absence of job gains in our economy following the stimulus, and second, to bring our focus back to the source of 70 percent of net new jobs over the past decade—the engine that drives the U.S. economy. Of course, I am talking about America's small businesses.

America's small businesses have been suffering during this recession. If you go back to your States frequently, like I do, you'll hear about it directly. A few months ago, Senators LANDRIEU and SNOWE held a hearing on the credit crunch hitting small business. They found that big banks have been cracking down on lending to small businesses.

Another very good source of answers about the environment of small business is found in the monthly survey of small business. This survey is published by the National Federation of Independent Business ''NFIB''.

NFIB is the largest small business organization. NFIB has been conducting these surveys for 35 years.

NFIB's membership includes hundreds of thousands of small businesses all across America. You can find the survey on NFIB's website at http://www.nfib.com/Portals/0/PDF/sbet/sbet200906.pdf. I would encourage every member to check out the June 2009 survey.

The survey shows some extremely disturbing trends. On credit availability, small businesses are getting squeezed very hard. The availability of loans has fallen off a cliff since late 2007 and is at its lowest point since the recession period of 1980 to 1982.

This credit crunch and other factors have contributed to NFIB's index of small business optimism falling well below average. According to the survey, small business owners have become extremely pessimistic in the last couple of years. What you see here is the attitude of the decision makers in small business America.

Those are the decision makers for businesses that President Obama and Congress agree are the businesses most likely to grow or contract jobs. This data should concern every policy maker in this town.

While those two sets of data are bad, it doesn't get any better when you look at small business hiring plans. Another question on the survey asks the small business owner whether he or she plans to expand or contract employment over the next three months. The survey results show small business activity contracting tremendously, and the overall small business employment numbers tell the same story.

I must say that the President's recent efforts to increase lending to the small business sector are commendable. The center piece of his small business plan will allow the federal government to spend up to $25 billion to purchase the small-business loans that are now hindering community banks and lenders. Unfortunately, that is a drop in a very empty bucket.

Remember, colleagues, that small business accounts for about half of the private sector.

Moreover, the positives that will come to small businesses from this relatively small package of loans—which will ultimately have to be paid back—will be heavily outweighed by the negative impact of the President's proposed tax increases. Helping small businesses get loans just to take that money back in the form of tax hikes is not wise.

I now want to turn to those aforementioned tax hikes on small businesses that President Obama and my colleagues on the other side of the aisle have proposed. I certainly understand that small business is vital to the health of our economy. The President and I agree that 70 percent of new private sector jobs are created by small businesses.

However, where we differ is that I believe small businesses' taxes should be lowered, not raised, to get our economy back on track. In 2001 and 2003, Congress enacted bipartisan tax relief designed to trigger economic growth and create jobs by reducing the tax burden on individuals and small businesses. This included an across-the-board income tax reduction, which reduced marginal tax rates for income earners of all levels, a reduction of the top dividends and capital gains tax rate to 15 percent, and a gradual phaseout of the estate tax.

Unfortunately, like many of the other provisions enacted in 2001 and 2003, these tax relief measures are scheduled to expire at the end of 2010.

Some have referred to this bipartisan tax relief as ''the Bush tax cuts for the wealthy'' and have suggested that the tax relief provided for higher-income earners should be allowed to expire. However, this tax relief was bipartisan and provides tax relief for all taxpayers. The President and my colleagues on the other side of the aisle have proposed increasing the top two marginal tax rates from 33 percent and 35 percent to 36 percent and 39.6 percent, respectively.

They have also proposed increasing the tax rates on capital gains and dividends to 20 percent, and providing for an estate tax rate as high as 45 percent and an exemption amount of $3.5 million.

Also, the President has called for fully reinstating the personal exemption phaseout, or PEP for short, and

the limitation on itemized deductions, which is known as Pease. Under the 2001 tax law, PEP and Pease are scheduled to be completely phased out in 2010. However, like other provisions in the law, PEP and Pease are scheduled to come back in full force in 2011 should Congress fail to take further action.

With PEP and Pease fully reinstated, individuals in the top two rates could see their marginal effective tax rate increased by 20 percent or more. For example, a family of four that is in the 33 percent tax bracket in 2010 could pay a marginal effective tax-rate of 41 percent after 2010—or even more if they had more children—because of PEP and Pease.

Some of my colleagues on the other side of the aisle have defended this proposal by claiming they will only raise taxes on ''wealthy'' taxpayers who make over $200,000 a year. For the vast majority of people who earn less than $200,000, raising taxes on higher earners might not sound so bad.

However, this means that many small businesses will be hit with a higher tax bill. These small businesses happen to at least 70 percent of all new private sector jobs in the U.S.

These small businesses that are taxed as sole proprietorships, S corporations, and partnerships—including LLCs—whose owners make over $200,000, or $250,000 if married, would get hit with the President's proposal to raise the top two marginal tax rates.

In addition, there are just under 2 million C corporations that are not publicly traded, and all C corporations are subject to double taxation. To the extent these C corporations' owners that make over $200,000, or $250,000 if married, pay themselves a salary, they would get hit with the tax increase on the top two marginal tax rates proposed by the President.

Also, any owners of C corporations that receive dividends or realize capital gains and make over $200,000, or $250,000 if married, would pay a 20 percent rate on these dividends and capital gains after 2010 under the President's tax hike proposals, instead of paying the current law rate of 15 percent.

According to NFIB survey data, 50 percent of owners of small businesses that employ 20–249 workers would fall in the top two brackets. According to the Small Business Administration, about ⅔ of the Nation's small business workers are employed by small businesses with 20–500 employees.

Do we really want to raise taxes on these small businesses that create new jobs and employ ⅔ of all small business workers?

With these small businesses already suffering from the credit crunch, do we really think it's wise to hit them with the double-whammy of a 20 percent increase in their marginal tax rates?

Newly developed data from the Joint Committee on Taxation demonstrates that 55 percent of the tax from the higher rates will be borne by small business owners with income over $250,000. This is a conservative number, because it doesn't include flow-through business owners making between $200,000 and $250,000 that will also be hit with the Budget's proposed tax hikes.

If the proponents of the marginal rate increase on small business owners agree that a 20 percent tax increase for half of the small businesses that employ two-thirds of all small business workers is not wise, then they should either oppose these tax increases, or present data that show a different result.

I will also fight for a lower estate tax rate and a higher estate tax exemption amount to protect successful small businesses and farmers. In a time when many businesses are struggling to stay afloat, it does not make sense to impose additional burdens on them by raising their taxes.

Odds are, they will cut spending. They will cancel orders for new equipment, cut health insurance for their employees, stop hiring, and lay people off. Instead of seeking to raise taxes on those who create jobs in our economy, policies need to focus on reducing excessive tax and regulatory barriers that stand in the way of small businesses and the private sector making investments, expanding production, and creating sustainable jobs.

As the current ranking member of the tax writing Finance Committee, you can be sure that I will continue to fight to prevent a dramatic tax increase on our nation's job engine—the small businesses of America. This includes working to protect small businesses from higher marginal tax rates, an increase in the capital gains and dividends tax rate, and an increase in the unfair estate tax rate that will penalize the success of small businesses and farmers who would like to pass on their gains to the next generation.

In fact, today I have introduced a bill to lower taxes on these job-creating small businesses.

My bill contains a number of provisions that will leave more money in the hands of these small businesses so that these businesses can hire more workers, continue to pay the salaries of their current employees, and make additional investments in these businesses.

For instance, my bill would increase the amount of capital expenditures that small businesses can expense from $250,000 to $500,000. Also, my bill would allow more small C corporations to benefit from the lower graduated tax rates for smaller C corporations.

Another provision takes the general business credits, which are listed in section 38, out of the Alternative Minimum Tax, AMT, for those sole proprietorships, flow-throughs and non-publicly traded C-corps with 50 million or less in annual gross receipts. This provision amends section 39 to extend the 1-year carryback for general business credits to a 5-year carryback. This applies to general business credits for those sole proprietorships, flow-through entities and non-publicly traded C-corps with 50 million or less in annual gross receipts.

Another provision in my bill amends section 199 of the Internal Revenue Code, which contains the deduction for manufacturing, to provide a 20 percent deduction for flow-through business income for all small businesses, which are defined as flow-through entities with 50 million or less in annual gross receipts. Another provision in my bill deals with the situation where a C corporation becomes an S corporation. Under current law, there is no tax on built-in gains of assets within a C corporation that converts to an S corporation if those assets with built-in gain are held for 10 years by the S corporation. The stimulus bill reduced this 10-year period down to 7 years for sales of assets with built-in gain that occur within 2009 and 2010.

My provision reduces this time period down to 5 years for all S corporations that have converted from a C corporation.

Another provision in my bill expands the net operating loss provision contained in the stimulus bill. Current law provides that net operating losses from any size business may be carried back 2 taxable years before the year that the loss arises and carried forward 20 years. The stimulus bill amended the carryback provision by expanding the carryback from 2 years to 5 years if a small business had gross receipts of $15 million or less.

This provision expands that $15 million gross receipt requirement to $50 million in gross receipts so that more small businesses can qualify for this benefit.

Another provision in my bill amends section 1202 of the Internal Revenue Code to eliminate the tax on capital gains for certain start-up C corporations. The stimulus bill reduced the capital gains tax to approximately 7 percent on stock qualifying under 1202. However, President Obama has called for eliminating, not simply reducing, the tax on capital gains for these start-up businesses, and that is exactly what my provision would do.

The final provision in my bill permits a deduction for payments made under the Self-Employment Contribution Act, or SECA, at one-hundred percent of health insurance premiums that are paid by those who are self-employed.

We all want to see the job numbers from the Department of Labor moving in a positive direction. We all want to see the unemployment rate plummet. I firmly believe that the best way for us to do that is to prime the job-creating engine of our economy, which is small businesses. Furthermore, increasing taxes on small businesses as President Obama has proposed will destroy even more jobs.

My small business bill, if enacted, will lead to many new jobs. As opposed

to the jobs President Obama argues that the stimulus bill has saved while our economy has been hemorrhaging jobs, my bill will create countable, verifiable, private sector jobs that will put people to work and get the economy moving in the right direction again.

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

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

S. 1381

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Tax Relief Act of 2009''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act 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. 2. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Subsection (b) of section 179 (relating to limitations) is amended—

(1) by striking ''$25,000'' and all that follows in paragraph (1) and inserting ''$500,000.'',

(2) by striking''$200,000'' and all that follows in paragraph (2) and inserting ''$2,000,000'',

(3) by striking ''after 2007 and before 2011, the $120,000 and $500,000'' in paragraph (5)(A) and inserting ''after 2009, the $500,000 and the $2,000,000'',

(4) by striking ''2006'' in paragraph (5)(A)(ii) and inserting ''2008'', and

(5) by striking paragraph (7).

(b) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) of the Internal Revenue Code of 1986 (defining section 179 property) is amended by striking ''and before 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 3. MODIFICATION OF CORPORATE INCOME TAX RATES.

(a) IN GENERAL.—Paragraph (1) of section 11(b) (relating to amount of tax) is amended to read as follows:

''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum of—

''(A) 15 percent of so much of the taxable income as does not exceed $1,000,000,

''(B) 25 percent of so much of the taxable income as exceeds $1,000,000 but does not exceed $1,500,000,

''(C) 34 percent of so much of the taxable income as exceeds $1,500,000 but does not exceed $10,000,000, and

''(D) 35 percent of so much of the taxable income as exceeds $10,000,000.

In the case of a corporation which has taxable income in excess of $2,000,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $235,000. In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000.''.

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

SEC. 4. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES NOT SUBJECT TO ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SPECIAL RULES FOR ELIGIBLE SMALL BUSINESS CREDITS.—

''(A) IN GENERAL.—In the case of eligible small business credits—

''(i) this section and section 39 shall be applied separately with respect to such credits, and

''(ii) in applying paragraph (1) to such credits—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the eligible small business credits).

''(B) ELIGIBLE SMALL BUSINESS CREDITS.—For purposes of this subsection, the term 'eligible small business credits' means the sum of the credits listed in subsection (b) which are determined for the taxable year with respect to an eligible small business. Such credits shall not be taken into account under paragraph (2), (3), or (4).

''(C) ELIGIBLE SMALL BUSINESS.—For purposes of this subsection, the term 'eligible small business' means, with respect to any taxable year__

''(i) a corporation the stock of which is not publicly traded, or

''(ii) a partnership,

which meets the gross receipts test of section 448(c) (by substituting '$50,000,000' for '$5,000,000' each place it appears) for the taxable year (or, in the case of a sole proprietorship, which would meet the test if such proprietorship were a corporation).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined in taxable years beginning after December 31, 2009, and to carrybacks of such credits.

SEC. 5. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES CARRIED BACK 5 YEARS.

(a) IN GENERAL.—Section 39(a) (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(4) 5-YEAR CARRYBACK FOR ELIGIBLE SMALL BUSINESS CREDITS.—

''(A) IN GENERAL.—Notwithstanding subsection (d), in the case of eligible small business credits—

''(i) this section shall be applied separately from the business credit (other than the eligible small business credits) or the marginal oil and gas well production credit,

''(ii) paragraph (1) shall be applied by substituting 'each of the 5 taxable years' for 'the taxable year' in subparagraph (A) thereof, and

''(iii) paragraph (2) shall be applied—

''(I) by substituting '25 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(II) by substituting '24 taxable years' for '20 taxable years' in subparagraph (B) thereof.

''(B) ELIGIBLE SMALL BUSINESS CREDITS.—For purposes of this subsection, the term 'eligible small business credits' has the meaning given such term by section 38(c)(5)(B).''.

(b) CONFORMING AMENDMENT.—Section 39(a)(3)(A) is amended by inserting ''or the eligible small business credits'' after ''credit)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to credits arising in taxable years beginning after December 31, 2009.

SEC. 6. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

''(A) 9 percent of the lesser of—

''(i) the qualified production activities income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year, and

''(B) in the case of an eligible small business for any taxable year beginning after 2009, 20 percent of the lesser of—

''(i) the eligible small business income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year.''.

(b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

''(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—

''(1) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term 'eligible small business' has the meaning given such term by section 38(c)(5)(C).

''(2) ELIGIBLE SMALL BUSINESS INCOME.—

''(A) IN GENERAL.—For purposes of this section, the term 'eligible small business income' means the excess of—

''(i) the income of the eligible small business which—

''(I) is attributable to the actual conduct of a trade or business,

''(II) is income from sources within the United States (within the meaning of section 861), and

''(III) is not passive income (as defined in section 904(d)(2)(B)), over

''(ii) the sum of—

''(I) the cost of goods sold that are allocable to such income, and

''(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

''(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

''(i) Any income which is attributable to any property described in section 1400N(p)(3).

''(ii) Any income which is attributable to the ownership or management of any professional sports team.

''(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

''(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

''(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.''.

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

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

SEC. 7. REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:

''(7) RECOGNITION PERIOD.—

''(A) IN GENERAL.—The term 'recognition period' means the 5-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

''(B) SPECIAL RULE FOR DISTRIBUTIONS TO SHAREHOLDERS.—For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e), subparagraph (A) shall be applied without regard to the phrase '10-year'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 8. CARRYBACK OF NET OPERATING LOSSES OF CERTAIN SMALL BUSINESSES ALLOWED FOR 5 YEARS.

Subparagraph (H) of section 172(b)(1) is amended to read as follows:

''(H) 5-YEAR CARRYBACK OF LOSSES OF CERTAIN SMALL BUSINESSES.—

''(i) IN GENERAL.—In the case of a net operating loss with respect to any eligible small business for any taxable year ending after 2008, or, if applicable, following the taxable year with respect to which an election was made by such eligible small business under this subparagraph (as in effect before the date of the enactment of the Small Business Tax Relief Act of 2009)—

''(I) subparagraph (A)(i) shall be applied by substituting '5' for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting '4' for '2', and

''(III) subparagraph (F) shall not apply.

''(ii) ELIGIBLE SMALL BUSINESS.—For purposes of clause (i), the term 'eligible small business' has the meaning given such term by section 38(c)(5)(C).''.

SEC. 9. MODIFICATIONS TO EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) TEMPORARY INCREASE IN EXCLUSION.—Paragraph (3) of section 1202(a) (relating to exclusion) is amended to read as follows:

''(3) SPECIAL RULES FOR STOCK ACQUIRED BEFORE 2011.—In the case of qualified small business stock—

''(A) acquired after the date of the American Recovery and Reinvestment Tax Act of 2009 and on or before the date of the enactment of the Small Business Tax Relief Act of 2009—

''(i) paragraph (1) shall be applied by substituting '75 percent' for '50 percent', and

''(ii) paragraph (2) shall not apply, and

''(B) acquired after the date of the enactment of the Small Business Tax Relief Act of 2009 and before January 1, 2011—

''(i) paragraph (1) shall be applied by substituting '100 percent' for '50 percent',

''(ii) paragraph (2) shall not apply, and

''(iii) section 57(a)(7) shall not apply.''.

(b) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) (relating to per-issuer limitation on taxpayer's eligible gain) is amended by striking ''$10,000,000'' and inserting ''$15,000,000''.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) (relating to treatment of married individuals) is amended by striking ''paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000' '' and inserting ''the amount under paragraph (1)(A) shall be half of the amount otherwise in effect''.

(c) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) (defining qualified small business) is amended by striking ''$50,000,000'' each place it appears and inserting ''$75,000,000''.

(d) INFLATION ADJUSTMENTS.—Section 1202 (relating to partial exclusion for gain from certain small business stock) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2009, the $15,000,000 amount in subsection (b)(1)(A), the $75,000,000 amount in subsection (d)(1)(A), and the $75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $1,000,000 such amount shall be rounded to the next lowest multiple of $1,000,000.''.

(e) EFFECTIVE DATES.—

(1) EXCLUSION; QUALIFIED SMALL BUSINESS.—The amendments made by subsections (a) and (c) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (b) and (d) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 10. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

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

By Mr. DODD:

S. 1382. A bill to improve and expand the Peace Corps. for the 21st century, and for other purposes; to the Committee on Foreign Relations.

Mr. DODD. Mr. President, I rise today to introduce a piece of legislation—and not just any old piece of legislation, I might add, because this organization I am about to talk about had as much to do with the formation of who I am as my family did: the Peace Corps Improvement and Expansion Act of 2009.

I would point out that some 35 years ago a young man from Massachusetts and an equally young man from Connecticut were elected to the House of Representatives. A fellow by the name of Paul Tsongas and myself were the first two former Peace Corps volunteers to be elected to the Congress. Paul Tsongas went on to be elected to the Senate, I think, in 1978. He is no longer with us. He died tragically a number of years ago. His wife Niki is now a Member of the House of Representatives from Massachusetts.

Paul Tsongas and I were great friends and enjoyed sharing stories with each other for many years about our respective Peace Corps experiences.

Paul Tsongas served in Ethiopia—one of the earliest programs, if not the earliest program, in that country. I served in the Dominican Republic from 1966 through 1968 as a Peace Corps volunteer up in the mountains of that country, not far from the Haitian border. The Peace Corps experience for me was as formative, as I said at the outset of these remarks, as anything else in my life, with the exception of my own family; growing up with wonderful five brothers and sisters in Connecticut and a family who was deeply involved in public service.

The Peace Corps experience was formative, and so over the years, I have expressed a great deal of interest in the organization and the various administrations that have served in Washington since the late 1970s through the 1980s and 1990s and this decade. So my interest in the organization is strong.

The contribution of the Peace Corps has been remarkable over the years. It is one of the few Federal agencies that enjoys almost universal support from the American public. It has had greater moments of celebration and public awareness than at others, but it has been consistent in the minds of most Americans. This organization sends mostly younger Americans, but not always younger Americans, to serve in underprivileged nations, nations that are struggling, including Third World nations, to make a difference in the lives of others. It has been a unique contribution to the world.

There are many other volunteer organizations—some in our own country, some in other nations—but I think the Peace Corps holds a special place in the minds not only of our own fellow citizenry but also millions of people around the world who have come to know those Peace Corps volunteers—as I said, mostly younger people but not always younger people—who serve and spend 2 years working with them in their villages or urban areas, not only making a difference in their daily lives but also getting to know them, getting to know us. People who would never have the chance to come to America got to know America because they got to know that young American who was learning their language and spending time with them and making a contribution to improve their lives.

Well, for 48 years, the Peace Corps has stood as a uniquely American institution. I know other nations make contributions. This is not a unique idea for ourselves. But what other great nation would send its people abroad not to extend its power or intimidate its adversaries, not to kill or be killed, but to dig, to teach, to empower, and ask for nothing in return. For 48 years, those men and women—180,000 of us—have returned, as stronger, wiser, and more inspired people prepared to live our American lives of service.

For a half century, the Peace Corps has shaped our lives and the identity of all Americans; who we are as a people and what we hope to achieve, not only for our own Nation but also for others who share this planet with us.

Today I rise to offer a piece of legislation for one simple reason, Mr. President: I want the Peace Corps to continue playing that role that it has for the last half century for another half century to come. But before we consider how the Peace Corps can grow going forward, I think it might be worth remembering just how it came into being. Where did it all start? How was it created?

Like an awful lot of groundbreaking ideas, Mr. President, the Peace Corps might not have survived a board meeting or a subcommittee hearing where the idea was first proposed. It was a wild notion in many ways, so breathtakingly outrageous that it could only have been born out of idealism, youthful energy, and—perhaps a key element—too much caffeine. For you see, the Peace Corps was born at 2 in the morning.

It was October 4, 1960, and a then young Senator from Massachusetts by the name of John F. Kennedy was running for the Presidency. He was running hours late, as candidates often do, for a campaign stop at the University of Michigan in Ann Arbor. John Kennedy assumed that most of the crowd would have gone home by that late hour. But when he arrived at the student union, at the campus in Ann Arbor, he found 10,000 students waiting outside in the frigid dark to greet him. As public officials and holders of elective office, I think we can sympathize with then-Senator Kennedy at that hour, having endured months of late nights on a campaign trail, uncomfortable beds, and a bad diet along the way. I suspect he might have been sorely tempted at that late hour—as all of us have been from time to time—to offer a perfunctory thank-you to the Michigan students for hanging around all that long, recite a memorized stump speech—having given it on countless occasions, he would know it from memory—and send them home and retire himself.

But something besides a chill was in the air that night in Ann Arbor. Floodlit and shivering, the crowd began to chant his name as he climbed the steps to the student union, and Senator John Kennedy realized this was something special. He realized he owed these students more than just that perfunctory set of remarks. So at 1:30 or 2:00 in the morning, on a frigid night in Michigan, he challenged them as a candidate, as a United States Senator, and he asked:

> How many of you, who are going to be doctors, are willing to spend your days in Ghana? Technicians or engineers, how many of you are willing to work in the Foreign Service and spend your lives traveling around the world?

I believe, Mr. President, that challenge is the Peace Corps' founding document. It didn't begin with a white paper or a TV ad. It began with a simple question.

In the days that followed the Kennedy rally at the student union in Michigan, students drafted a petition, circulating it to colleges all across the State, and within a couple of weeks across the country, presenting several scrolls ultimately to John Fitzgerald Kennedy containing thousands upon thousands upon thousands of names. Some 30,000 letters flooded his office asking him to continue with this idea.

So I think it is fair to say, Mr. President, the answer to that question—are you willing to serve your country by serving the world?—was an overwhelming yes by a generation almost 50 years ago. Of course, several other pressing questions also followed: How do you build an organization around that raw energy? How do you pay for that? What do you even call that idea or organization?

John Kennedy's top advisers were already working on those issues. After all, they had decided, if we don't start doing our part for the developing world, they were concerned—and rightfully so—the Communists around the world would. At a time much like today, when our Nation faced conflicts with people who knew as little of America as we knew of them, this case for a Peace Corps could be made not only in the lofty rhetoric of idealism but in the cold hard language of realpolitik.

The notion that service could be a part of our foreign policy—indeed that it could be a powerful weapon in the Cold War—was truly a radical idea. It suggested that there could be more measures of strength than caliber or tonnage. It argued that the world needed to see our ideals not just in ink but incarnate in the person of Americans with dirty hands working under a hot foreign sun. It said: You cannot hate America if you know Americans.

The skeptics quickly descended upon John Kennedy's idea. Richard Nixon called the Peace Corps ''a haven for draft-dodgers.'' Former President Dwight Eisenhower called it ''a juvenile experiment.'' Even those old foreign policy hands who supported Kennedy's idea thought it was a fine idea, as long as it was kept small. Academics and State Department officials agreed: Proceed with caution, they urged. Start with just a few hundred volunteers. Don't create a fiasco, they said. Don't let this experiment get out of hand.

If they had gotten their way, I suspect the Peace Corps might not even exist today. But just as a late-night burst of exuberance gave birth to the Peace Corps in Ann Arbor, a similar bolt of sleepless inspiration kept it alive. In a hotel room in downtown Washington—not far from where I am on the floor of the Senate—with only a few typewriters and a stack of blank papers, two aides—only two of them; one named Sergeant Shriver and the other named Harris Wofford, who turned out many years later to be a colleague of ours in the Senate—comprised the entirety of the Peace Corps staff that had been tasked with figuring out how to put this outrageous idea into practice.

The one thing the two of these men knew, Sergeant Shriver later told us, was that the conventional approach then in vogue wouldn't work. America would only have one chance to get it right. So it was that Sergeant Shriver happened to be in the office at 3 o'clock in the morning—not unlike the hour at Ann Arbor—reading a paper prepared by a State Department employee who had sent along some ideas. His name was Warren Wiggins.

Warren Wiggins called his paper ''The Towering Task,'' a reference to JFK's first State of the Union Address, where the young President said:

> The problems are towering and unprecedented and the response must be towering and unprecedented as well.

Warren Wiggins called for a towering and unprecedented Peace Corps. He wrote:

> One hundred youths engaged in agricultural work of some sort in Brazil might pass by unnoticed, but 5,000 American youths helping to build Brasilia might warrant the full attention and support of the President of Brazil himself.

Where a handful of young people might present a nuisance to a foreign ambassador, an army of motivated young Americans could make a real difference. Besides, wasn't it a moment for great ambition?

At 3 o'clock in the morning, Sergeant Shriver read Warren Wiggins's conclusion: The Peace Corps needed to begin with a ''quantum jump,'' and it needed to begin immediately, by Executive order, with as many as 5,000 to 10,000 volunteers right away. By 9 o'clock that same morning, Warren Wiggins himself was sitting alongside Sergeant Shriver in that very hotel room drafting a report for the President of the United States.

Within a month of that date, President John Kennedy had created the Peace Corps by Executive order. Within 2 years, more than 7,000 young Americans were serving across the globe, and that number had more than doubled by 1966, the year that I joined the Peace Corps.

One of those young Americans—as I mentioned, the person speaking to you this afternoon—was a 22-year-old English major at Providence College who arrived in the small village of Moncion in the Dominican Republic. As a young person, I spoke barely any Spanish. I had little idea I was doing, and I certainly didn't have a clue that more than 40 years later I would be standing on the floor of the United States Senate explaining that the Peace Corps gave me the richest 2 years of my life.

I owe those 2 years, and the impact they had on all of my years since, to John Kennedy's 2 a.m. question and Warren Wiggins paper that Sergeant Shriver read at 3 in the morning.

From the story of the Peace Corps, and my own story, we can learn three things: First, the Peace Corps works,

Mr. President. Besides simple labor and goodwill, every American we send abroad brings with him or her another chance to make America known to a world that often fears and suspects us and our motives. Every American who returns to our country from that service comes home as a citizen strengthened with the knowledge of the world in which he or she has just lived.

As Sargent Shriver said, ''Peace Corps Volunteers come home to the USA realizing that there are billions—yes, billions—of human beings not enraptured by our pretensions, or our practices, or even our standards of conduct.''

Second: size matters. The perils of a small, timid Peace Corps are just as clear today as they were in 1961. Just as then, advocates of a stripped-down mission make the same arguments: sending untrained, untested students only aggravates our host countries and raises the chance of a mishap—so let's send a few experts instead. And just as in 1961, our response is fundamentally the same, and still fundamentally correct: of course we need volunteers of the highest quality. But we need the highest quantities, too.

Third: size comes at a cost. The bigger any organism grows, the slower it gets. The Peace Corps that charted its course in a hotel room with a staff of two now enjoys a staff of over a thousand and a fine office building close to the White House. But even the most groundbreaking ideas must all make, in good time, what the philosopher Gramsci called ''the long march through the institutions.'' And where President Kennedy once predicted that, within a few decades, our Nation would have more than one million returned volunteers, today fewer than 200,000 have had the opportunity to serve.

The legislation I offer today is designed to help the Peace Corps not only grow—and I have joined the many voices calling for it to grow dramatically—but also reform.

To those who know and love the Peace Corps, reform is an uncomfortable subject. After all, we don't want to destroy what has made this institution so remarkable and unique. There wouldn't be a Peace Corps if JFK had stuck to the script in Ann Arbor. There wouldn't be a Peace Corps if thousands of students, acting on their own initiative, hadn't caught his attention with their movement. There might not be a Peace Corps if Sargent Shriver had listened to the respectable voices of caution in the early days of 1961.

The Peace Corps is unlike any other organ of our government because of its uniquely grassroots origin. And we can't treat it like any other organ of our government for those reasons.

So the Peace Corps Improvement and Expansion Act of 2009 does not include a list of mandates. It does not micromanage.

Instead, it asks those who have written this remarkable success story—from the Director to managers and country directors to current and returned volunteers—to serve once more by undertaking a thorough assessment of the Peace Corps and developing a comprehensive strategic plan for reforming and revitalizing the organization.

Just as JFK's question to those Michigan students sparked the Peace Corps, asking questions today, some 50 years later, I believe will strengthen it. How can volunteers be better managed? How can they be better trained? Can we improve recruiting? Are we sending our volunteers to the right countries? Why do we have volunteers in Samoa and Tonga, but not in Indonesia, Egypt, or Brazil? Are we still achieving the broader goals of the Peace Corps and helping our country meet 21st century challenges?

Most of all: How can we strengthen and grow this remarkable organization without losing the spark—the ambitious sense of the possible that led JFK to stay up late dreaming with those students in Ann Arbor and Sargent Shriver to stay up even later reading Warren Wiggins's paper?

Warren Wiggins died 2 years ago at the age of 84. His obituary quoted Harris Wofford: ''I think he embodied the watchwords that were once given to me: We must be more inventive if we're going to do our duty.''

Inventiveness and duty: two qualities that don't often go together. But the Peace Corps is the result of just such a combination. It has strengthened our Nation, improved the world, and stands today as one of the signal accomplishments of the 20th century. It has been supported by Republican and Democratic administrations over the last 50 years.

As I said at the outset of these remarks, except for my own family, nothing has meant more in my life—or in the lives of so many others—than the experience I enjoyed so many years ago.

Today we honor the accomplishment of this organization. But let us commit to strengthening and expanding the Peace Corps by passing this legislation which I will send to the desk momentarily. Let us strive to inspire future generations to walk the path of service and exploration, the one that led me and thousands of our Nation's citizens to nations such as the Dominican Republic or Ethiopia, where Paul Tsongas served, and then years later to arrive at this institution, which I cherish and love as well. And let us never lose that spirit, that idealism, that ambition that led a young President of a young nation to ask a generation to serve.

By Mr. DURBIN (for himself and Mr. GRASSLEY):

S. 1383. A bill to amend the Controlled Substances Act to prevent the abuse of dextromethorphan, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. I rise to introduce the Dextromethorphan Abuse Reduction Act of 2009. This legislation will help prevent the dangerous abuse by minors of cough medicines containing the ingredient dextromethorphan, and will also help education and prevention efforts regarding teen abuse of prescription and nonprescription drugs. I am pleased to be joined by my colleague Senator GRASSLEY of Iowa in sponsoring this legislation, and I look forward to working with him to see it enacted into law.

Dextromethorphan, or DXM, is a cough suppressant commonly found in over-the-counter cold medicines. These medicines are safe and effective when taken in their recommended dosage, but when consumed in large amounts, medicines containing DXM can produce a hallucinogenic high. Teens who abuse cough medicines often refer to the practice as ''Robotripping,'' a term derived from the cough medicine Robitussin which contains DXM. When abused, cold medicines containing DXM can cause a variety of harmful physical effects, including disorientation, impaired physical coordination, abdominal pain, nausea, rapid heartbeat, and seizures. However, medicines containing DXM are legal, inexpensive, and sold at retail stores and over the Internet.

Studies show that teenagers are abusing cough medicines at an alarming rate. A recent study by the Partnership for a Drug-Free America revealed that about 7 percent of teens—or 1.7 million—reported abusing cough medicine in the year 2008. This study also found high rates of teen abuse of other prescription drugs, with 2.5 million teens reporting having abused a prescription pain reliever in 2008. Experts say that cough syrup and prescription drug abuse is significantly underreported.

The Dextromethorphan Abuse Reduction Act would take significant steps to reduce and prevent teen abuse of DXM and other over-the-counter drugs. First, the bill prohibits the sale of products containing DXM to a buyer who is under 18 years old. Several major retailers, including Walgreens, Rite-Aid, and Giant, have already voluntarily agreed not to sell products that contain DXM to purchasers who are under 18, and their retail clerks check IDs to verify the purchaser's age. The legislation would codify these voluntary steps, and would also direct the Justice Department to promulgate regulations ensuring that Internet sales of DXM-containing products comply with these age restrictions. Notably, the legislation prohibits the sale to minors of any product containing DXM, including not just over-the-counter cough medicines but also products containing DXM in its raw, unfinished form. This is important since the abuse of unfinished DXM products has been responsible for several deaths in my home State of Illinois and elsewhere.

Second, this legislation would fund prevention and educational programs

to combat over-the-counter and prescription drug abuse. The bill authorizes the Director of National Drug Control Policy to provide money for the creation of a nationwide education campaign directed at teens and their parents regarding the prevention of abuse of prescription and nonprescription drugs. It also authorizes grants to communities for over-the-counter drug abuse awareness and prevention efforts, and provides increased funding to the National Community Anti-drug Coalition Institute to provide training and technical assistance to boost those community-level efforts.

I am pleased that drug manufacturers and drug prevention groups have joined together in support of this legislation. The bill is supported by the Consumer Healthcare Products Association, the Partnership for a Drug-Free America, and the Community Anti-Drug Coalitions of America.

Restricting access by minors to DXM-containing products and increasing awareness for teens and their parents of the potential harms of cough syrup and other over-the-counter drugs will help combat the high rates of teen abuse of these products. I urge my colleagues to support this important legislation.

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

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

S. 1383

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 ''Dextromethorphan Abuse Reduction Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) When used properly, cough medicines that contain dextromethorphan have a long history of being safe and effective. But abuse of dextromethorphan at doses that exceed the recommended levels can produce hallucinations, rapid heart beat, high blood pressure, loss of consciousness, and seizures. The dangers multiply when dextromethorphan is abused with alcohol, prescription drugs, or narcotics.

(2) Dextromethorphan is inexpensive, legal, and readily accessible, which has contributed to the increased abuse of the drug, particularly among teenagers.

(3) Increasing numbers of teens and others are abusing dextromethorphan by ingesting it in excessive quantities. Prolonged use at high doses can lead to psychological dependence on the drug. Abuse of dextromethorphan can also cause impaired judgment, which can lead to injury or death.

(4) An estimated 1,700,000 teenagers (7 percent of teens) abused over-the-counter cough medicines in 2008.

(5) The Food and Drug Administration has called the abuse of dextromethorphan a ''serious issue'' and has said that while dextromethorphan, ''when formulated properly and used in small amounts, can be safely used in cough suppressant medicines, abuse of the drug can cause death as well as other serious adverse events such as brain damage, seizure, loss of consciousness, and irregular heart beat.''

(6) In recognition of the problem, several retailers have voluntarily implemented age restrictions on purchases of cough and cold medicines containing dextromethorphan, and several manufacturers have placed language on packaging of cough and cold medicines alerting parents to the dangers of medicine abuse.

(7) Prevention is a key component of the effort to address the rise in the abuse of dextromethorphan and other legal medications. Education campaigns teaching teens and parents about the dangers of these drugs are an important part of this effort.

SEC. 3. SALES OF PRODUCTS CONTAINING DEXTROMETHORPHAN.

(a) SALES OF PRODUCTS CONTAINING DEXTROMETHORPHAN.—

(1) IN GENERAL.—Part D of title II of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

''SEC. 424. CIVIL PENALTIES FOR CERTAIN DEXTROMETHORPHAN SALES.

''(a) IN GENERAL.—

''(1) SALE.—

''(A) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly or intentionally sell, cause another to sell, or conspire to sell a product containing dextromethorphan to an individual under 18 years of age, including any such sale using the Internet.

''(B) FAILURE TO CHECK IDENTIFICATION.—If a person fails to request identification from an individual under 18 years of age and sells a product containing dextromethorphan to that individual, that person shall be deemed to have known that the individual was under 18 years of age.

''(C) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to an alleged violation of subparagraph (A) that the person selling a product containing dextromethorphan examined the purchaser's identification card and, based on that examination, that person reasonably concluded that the identification was valid and indicated that the purchaser was not less than 18 years of age.

''(2) EXCEPTION.—This section shall not apply to any sale made pursuant to a validly issued prescription.

''(3) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Attorney General shall promulgate regulations for Internet sales of products containing dextromethorphan to ensure compliance with this subsection. The Attorney General may issue interim rules as necessary to ensure that such rules take effect not later than 180 days after the date of enactment of this section.

''(b) CIVIL PENALTY.—

''(1) IN GENERAL.—The Attorney General may file a civil action in an appropriate United States district court to enforce subsection (a).

''(2) MAXIMUM AMOUNT.—Any person who violates subsection (a)(1)(A) shall be subject to a civil penalty in an amount—

''(A) not more than $1,000 for the first violation of subsection (a)(1)(A) by a person;

''(B) not more than $2,000 for the second violation of subsection (a)(1)(A) by a person; and

''(C) not more than $5,000 for the third violation, or a subsequent violation, of subsection (a)(1)(A) by a person.

''(3) EMPLOYEE OR AGENT.—A violation of subsection (a)(1)(A) by an employee or agent of a person shall be deemed a violation by the person as well as a violation by the employee or agent.

''(4) FACTORS.—In determining the amount of a civil penalty under this subsection for a person who is a retailer, a court may consider whether the retailer has taken appropriate steps to prevent subsequent violations, such as—

''(A) the establishment and administration of a documented employee training program to ensure all employees are familiar with and abiding by the provisions of this section; or

''(B) other actions taken by a retailer to ensure compliance with this section.

''(c) DEFINITIONS.—In this section—

''(1) the term 'identification card' means an identification card that—

''(A) includes a photograph and the date of birth of the individual; and

''(B) is—

''(i) issued by a State or the Federal Government; or

''(ii) considered acceptable for purposes of sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B)(1) of title 8, Code of Federal Regulations (as in effect on or after the date of the enactment of the Dextromethorphan Abuse Reduction Act of 2009); and

''(2) the term 'retailer' means a grocery store, general merchandise store, drug store, pharmacy, convenience store, or other entity or person whose activities as a distributor relating to products containing dextromethorphan are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.''.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that—

(A) manufacturers of products containing dextromethorphan should continue the practice of including language on packages cautioning consumers about the dangers of dextromethorphan abuse; and

(B) retailers selling products containing dextromethorphan should implement appropriate safeguards to protect against the theft of such products.

(b) PREVENTION FUNDING.—

(1) PRESCRIPTION AND NONPRESCRIPTION DRUG ABUSE PREVENTION GRANTS.—

(A) IN GENERAL.—The Director of National Drug Control Policy shall provide grants to one or more eligible entities for the creation and operation of a nationwide education campaign directed at individuals under the age of 18 years and their parents regarding the prevention of abuse of prescription and nonprescription drugs (including dextromethorphan).

(B) ELIGIBLE ENTITY.—For purposes of subparagraph (A), the term ''eligible entity'' means an organization that—

(i) is a not-for-profit organization;

(ii) has broad national experience and a nationwide presence and capabilities;

(iii) has specific expertise and experience in conducting nationwide education campaigns;

(iv) has experience working directly with parents, teens, people in recovery, addiction scientists, and drug specialists to design drug education programs;

(v) has conducted research upon which to base the campaign specified in subparagraph (A);

(vi) has experience generating news media coverage related to drug prevention;

(vii) is able to secure pro bono media time and space to support the campaign specified in subparagraph (A); and

(viii) has a well-established national Internet presence targeting parents seeking information about drug prevention and intervention.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000, for each of fiscal years 2010 through 2012 to carry out this paragraph.

(D) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this subsection shall be used to supplement, not supplant, Federal

and non-Federal funds available for carrying out the activities described in this subsection.

(2) GRANTS FOR EDUCATION, TRAINING AND TECHNICAL ASSISTANCE TO COMMUNITY COALITIONS.—

(A) IN GENERAL.—The Director of National Drug Control Policy shall award a grant to the entity created by section 4 of Public Law 107–82, as amended by Public Law 109–469 (21 U.S.C. 1521 note), for the development and provision of specially tailored education, training, and technical assistance to community coalitions throughout the nation regarding the prevention of abuse of prescription and nonprescription drugs (including dextromethorphan).

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000, for each of fiscal years 2010 through 2012 to carry out this paragraph.

(C) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this subsection shall be used to supplement, not supplant, Federal and non-Federal funds available for carrying out the activities described in this subsection.

(c) SUPPLEMENTAL GRANTS FOR COMMUNITIES WITH MAJOR PRESCRIPTION AND NONPRESCRIPTION DRUG ISSUES.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''Administrator'' means the Administrator of the Substance Abuse and Mental Health Services Administration;

(B) the term ''drug'' has the meaning given that term in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321);

(C) the term ''eligible entity'' means an organization that—

(i) before the date on which the organization submits an application for a grant under this subsection, has received a grant under the Drug-Free Communities Act of 1997 (21 U.S.C. 1521 et seq.); and

(ii) has documented, using local data, rates of prescription or nonprescription drug abuse above national averages for comparable time periods, as determined by the Administrator (including appropriate consideration of the Monitoring the Future Survey by the University of Michigan);

(D) the term ''nonprescription drug'' has the meaning given that term in section 760 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379aa); and

(E) the term ''prescription drug'' means a drug described in section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1)).

(2) AUTHORIZATION OF PROGRAM.—From amounts made available to carry out this subsection, the Administrator, in consultation with the Director of the Office of National Drug Control Policy, shall make enhancement grants to eligible entities to implement comprehensive community-wide strategies regarding the prevention of abuse of prescription and nonprescription drugs (including dextromethorphan).

(3) APPLICATION.—

(A) IN GENERAL.—An eligible entity seeking an enhancement grant under this subsection shall submit an application to the Administrator at such time, in such manner, and accompanied by such information as the Administrator may require.

(B) CRITERIA.—As part of an application for a grant under this subsection, the Administrator shall require an eligible entity to submit a detailed, comprehensive, multisector plan for addressing abuse of prescription and nonprescription drugs (including dextromethorphan).

(4) USES OF FUNDS.—An eligible entity that receives a grant under this subsection shall use the grant funds for implementing a comprehensive, community-wide strategy that addresses abuse of prescription and nonprescription drugs (including dextromethorphan) in that community, in accordance with the plan submitted under paragraph (3)(B).

(5) GRANT TERMS.—A grant under this subsection—

(A) shall be made for a period of not more than 4 years; and

(B) shall not be in an amount of more than $100,000 per year.

(6) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this subsection shall be used to supplement, not supplant, Federal and non-Federal funds available for carrying out the activities described in this subsection.

(7) EVALUATION.—A grant under this subsection shall be subject to the same evaluation requirements and procedures as the evaluation requirements and procedures required of the recipient of a grant under the Drug-Free Communities Act of 1997 (21 U.S.C. 1521 et seq.).

(8) ADMINISTRATIVE EXPENSES.—Not more than 6 percent of a grant under this subsection may be expended for administrative expenses.

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000 for each of fiscal years 2010 through 2012 to carry out this subsection.

(d) DATA COLLECTION.—It is the sense of the Senate that Federal agencies and grantees that collect data on drug use trends should ensure that the survey instruments used by such agencies and grantees include questions to ascertain changes in the trend of abuse of prescription and nonprescription drugs (including dextromethorphan).

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 201(g) of the Controlled Substances Act (21 U.S.C. 811(g)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(2) TABLE OF CONTENTS.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513; 84 Stat. 1236) is amended by inserting after the item relating to section 423 the following:

''Sec. 424. Civil penalties for certain dextromethorphan sales.''

By Mr. WYDEN (for himself and Mr. CHAMBLISS):

S. 1387. A bill to enable the Director of National Intelligence to transfer full-time equivalent positions to elements of the intelligence community to replace employees who are temporarily absent to participate in foreign language training, and for other purposes; to the Select Committee on Intelligence.

Mr. WYDEN. Mr. President, today I am introducing legislation that I hope will enable our national intelligence agencies to increase their employees' proficiency in critical foreign languages. I have been a member of the Senate Intelligence Committee for over eight years, and during that time I have sat in a number of briefings and hearings that addressed foreign language capabilities. While specific details regarding the intelligence community's capabilities are generally classified, it is no secret that there is still a great need for more analysts and agents trained in key foreign languages. Over the past few years there have been a number of new initiatives designed to address this problem from different angles, and even newer initiatives are being introduced this year. The legislation that I am introducing today, which I have drafted along with Senator CHAMBLISS of Georgia, is not designed to replace any of those initiatives—rather, we think it will complement those other initiatives by filling a key gap.

Let me explain this gap a little, so it will be clear what problem we are trying to fix. Most efforts to improve the language capabilities of various intelligence agencies focus on recruiting Americans who have a background in critical foreign languages—either from their education, or from their family. But this only attacks the problem from one angle. If you want the national security workforce to have the strongest language skills possible, you also need to improve language training for people who already work for the intelligence agencies. This means both teaching the basics of key languages to more people, and helping people who are already proficient improve their skills further. Unfortunately, language training is time-intensive, and this can mean that personnel are diverted from short-term priorities.

Here is an example of how this problem might crop up in practice. Imagine that you are the supervisor of a group of 10 people somewhere in the intelligence community, working on counterterrorism issues, and that one of those employees decides he wants to go spend several months in intensive language training to improve his Arabic. This would be a good career move for that individual, and a good long-term investment for your agency. But for you, the supervisor, it means that you might be short-handed for several months while one of your employees is off getting language training. Since you have a fixed number of positions available for your office, it is difficult for you to replace someone while they are gone. This means that as the supervisor you actually have an incentive to resist letting that employee head off for language training, since it will leave your team less well-equipped to meet short-term priorities.

I am not saying that all supervisors within the intelligence community are focused solely on short-term priorities, to the detriment of our long-term security interests. But I am saying that if we want our intelligence agencies to effectively balance short- and long-term priorities, we need to give them incentives that encourage them to do so, and not penalize people who try to balance short-term needs and long-term goals.

Here is how the bipartisan legislation that Senator CHAMBLISS and I are introducing today would attempt to address this problem. Our bill would give the Director of National Intelligence the authority to transfer additional positions to offices whose personnel are

temporarily unavailable due to language training. The Director of National Intelligence is uniquely situated to evaluate which offices are most in need of these extra positions, and could transfer them to the places where they would do the most good.

So, to return to my previous example, if you were the supervisor of a young counterterrorism analyst who wants to take 6 months to go learn Arabic, you could go ask the Director of National Intelligence to transfer an extra position to your office for that 6 month period. That way, you could bring someone else in on a temporary basis to do that analyst's work while they are gone for training. The analyst and the agency would get the long-term benefits of additional language training, and you, the supervisor, would not have to sacrifice in the short-term.

Senator CHAMBLISS and I do not claim that this legislation will revolutionize the intelligence community's language capabilities overnight. But it is our hope that it will make it easier than it is today for managers to balance short- and long-term priorities. If we can achieve that it will be good for our national intelligence workforce, and for our national security interests.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 206—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SHOULD IMMEDIATELY IMPLEMENT THE UNITED STATES-COLOMBIA TRADE PROMOTION AGREEMENT

Mr. JOHANNS (for himself, Mrs. HUTCHISON, Mr. BUNNING, Mr. ROBERTS, Mr. MARTINEZ, and Mr. BOND) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 206

Whereas, since his election in 2002, the President of Colombia, Alvaro Uribe, has been overwhelmingly successful in strengthening the institutions of Colombia, fighting terrorism, improving the economy of Colombia, and extending the authority of the central government, the social support network, and security to most of Colombia;

Whereas, during President Uribe's term, the economy of Colombia grew at an average rate of more than 5 percent per year between 2002 and 2007;

Whereas, according to the World Bank, the total gross domestic product of Colombia increased from $93,000,000,000 in 2002 to $207,800,000,000 in 2007;

Whereas, according to the Office of the United States Trade Representative, approximately 10,000,000 people in Colombia have been lifted out of poverty during the past 5 years;

Whereas, according to the Ministry of Defense of Colombia, between 2002 and 2007, kidnappings in Colombia decreased by 83 percent, murders decreased by 40 percent, and terrorist attacks decreased by 76 percent;

Whereas police are now present in all 1,099 municipalities in Colombia, including areas previously held by various criminal and terrorist groups;

Whereas, according to the Department of State, more than 30,000 paramilitaries have been demobilized and disarmed since 2002;

Whereas, in July 2008, the security forces of Colombia successfully rescued 15 prisoners held hostage by the Revolutionary Armed Forces of Colombia (FARC), including French-Colombian Ingrid Betancourt and 3 citizens of the United States, Marc Gonsalves, Keith Stansell, and Thomas Howes;

Whereas, according to the Office of the United States Trade Representative, unemployment in Colombia fell from 16 percent in 2002 to 9.9 percent in 2007;

Whereas, partially in recognition of the impressive economic, political, and diplomatic advances Colombia has made during the past decade, the United States negotiated and signed the United States–Colombia Trade Promotion Agreement on November 22, 2006, and a protocol of amendment to the Agreement on June 28, 2007;

Whereas, according to the Office of the United States Trade Representative, Colombia is currently the 27th largest trading partner of the United States with respect to goods;

Whereas, according to the United States International Trade Commission, goods valued at $11,400,000,000 were exported from the United States to Colombia in 2008, an increase from $3,600,000,000 in 2002;

Whereas, according to the United States International Trade Commission, implementing the United States–Colombia Trade Promotion Agreement would boost exports from the United States by an estimated $1,100,000,000;

Whereas, more than 90 percent of exports from Colombia to the United States already enter the United States duty-free under the Andean Trade Preference Act (19 U.S.C. 3201 et seq.) and the Generalized System of Preferences under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.);

Whereas, according to the Office of the United States Trade Representative, more than 80 percent of consumer and industrial products exported from the United States to Colombia will enter Colombia duty-free as soon as the United States–Colombia Trade Promotion Agreement enters into force and all remaining tariffs on such products will be eliminated within 10 years after the Agreement enters into force;

Whereas, according to the Office of the United States Trade Representative, the primary exports from the United States to Colombia in 2008 were $2,600,000,000 in machinery, $997,000,000 in mineral fuel, $974,000,000 in organic chemicals, $969,000,000 in corn and wheat cereals, and $950,000,000 in electrical machinery;

Whereas, according to the Office of the United States Trade Representative, Colombia is the 15th largest market for farm products exported from the United States, with the United States exporting almost $1,700,000,000 worth of farm products to Colombia in 2008;

Whereas, since 2006, the quantity of agricultural products exported from the United States to Colombia has increased by approximately 40 percent per year;

Whereas, according to the Department of Agriculture, 99.9 percent of agricultural products imported into the United States from Colombia enter the United States duty-free, but no agricultural products exported from the United States to Colombia currently enter Colombia duty-free;

Whereas, according to the American Farm Bureau Federation, the United States–Colombia Trade Promotion Agreement would increase sales of agricultural products produced in the United States by $910,000,000,000 each year;

Whereas, according to the Department of Agriculture, more than half of agricultural products exported from the United States to Colombia will enter Colombia duty-free as soon as the United States–Colombia Trade Promotion Agreement enters into force and all remaining tariffs on such products will be phased out over time;

Whereas the United States–Colombia Trade Promotion Agreement will level the playing field for workers, businesses, and farmers in the United States by making duty-free treatment a 2-way street between the United States and Colombia for the first time;

Whereas, in the United States–Colombia Trade Promotion Agreement, Colombia agreed to exceed commitments made by Colombia as a member of the World Trade Organization and to dismantle significant barriers to services and investment from the United States; and

Whereas, in the United States–Colombia Trade Promotion Agreement, the United States and Colombia reaffirm their obligations as members of the International Labour Organization: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) recognizes the historic successes achieved by the President of Colombia, Alvaro Uribe, in rebuilding the Government of Colombia, strengthening the institutions of Colombia, and solidifying the rule of law in Colombia;

(B) congratulates President Uribe, the Government of Colombia, and the security forces of Colombia for significant successes in fighting the Revolutionary Armed Forces of Colombia (FARC);

(C) recognizes the close ties between the United States and Colombia in the fight against illicit narcotics, terrorism, and transnational crime; and

(D) recognizes that the United States–Colombia Trade Promotion Agreement is enormously advantageous for workers, businesses, and farmers in the United States, who would be able to export goods to Colombia duty-free for the first time; and

(2) it is the sense of that Senate that—

(A) it is in the security, economic, and diplomatic interests of the United States to deepen the relationship between the United States and Colombia; and

(B) the United States should implement the United States–Colombia Trade Promotion Agreement immediately.

Mr. JOHANNS. Mr. President, I rise today to speak about the United States-Colombia Free Trade Agreement which was signed way back in November of 2006. On July 29, President Uribe will be visiting the United States to meet with our President, President Obama. The two have previously met at the Summit of Americas in April, but this will be President Uribe's first time here under the new administration.

Today, as one Senator, I rise to express my hope for a continuing bond in our relationship with Colombia's President Uribe. I also rise to express some concerns that I will talk about. I am happy that President Obama recognizes the importance of our closest ally in South America. I am also pleased President Uribe continues to seek a close relation with the United States, for he is truly a courageous and a visionary leader.

Coming to power in some of the darkest and most vicious days of a Marxist insurgency everywhere in that country, he has pulled Colombia back from