pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 506

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 506, a bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies.

S. 520

At the request of Mr. SHELBY, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 520, a bill to limit the jurisdiction of Federal courts in certain cases and promote federalism.

S. 525

At the request of Mr. ALEXANDER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 525, a bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes.

S. 533

At the request of Mrs. HUTCHISON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 533, a bill to amend the Internal Revenue Code of 1986 to clarify that a NADBank guarantee is not considered a Federal guarantee for purposes of determining the tax-exempt status of bonds.

S. 534

At the request of Mr. FEINGOLD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 534, a bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes.

S. 539

At the request of Mr. MARTINEZ, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 539, a bill to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, and for other purposes.

S. RES. 40

At the request of Ms. LANDRIEU, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Res. 40, a resolution supporting the goals and ideas of National Time Out Day to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room.

AMENDMENT NO. 47

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 47 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

AMENDMENT NO. 67

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 67 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

AMENDMENT NO. 89

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 89 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 545. A bill to amend the Internal Revenue Code of 1986 to create Lifetime Savings Accounts; to the Committee on Finance.

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

S. 546. A bill to amend the Internal Revenue Code of 1986 to provide for retirement savings accounts, and for other purposes; to the Committee on Finance.

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

S. 547. A bill to amend the Internal Revenue Code of 1986 to provide for employer retirement savings accounts, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, today I rise to introduce the Savings Account Vehicle Enhancement, or ''SAVE,'' initiative, comprised of three separate bills to create, respectively, Lifetime Savings Accounts, Retirement Savings Accounts, and Employer Retirement Savings Accounts.

Much attention has been focused lately on the retirement security of Americans, but the focus thus far has centered primarily on Social Security. It is imperative that we remember that Social Security was never intended as a primary income source for retirees, but rather as a safety net and a supplement to private savings. The bills I introduce today focus on private savings, for both pre-retirement expenses and retirement security.

My reasons for introducing these bills are threefold. First of all, it is important that we address the appallingly-low personal savings rate in this country. Personal savings rates in the United States since 1960 have reached a new low at less than 2 percent. These bills will encourage additional savings and reduce the temptation for individuals to tap into retirement savings for other, pre-retirement purposes.

Secondly, our tax code is entirely too complex and contributes to lack of participation in the tax-preferred vehicles that already exist. These bills, by allowing individuals to accumulate tax-free interest and by streamlining current savings vehicles, represent an important step toward fundamental tax reform.

Finally, as the Social Security system strains under increasing pressure, it is even more important that we provide a better, more responsive, simpler system for Americans to accumulate personal savings for retirement.

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 545

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 ''Lifetime Savings Account Act of 2005''.

SEC. 2. LIFETIME SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subchapter F of Chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end the following new part:

''PART IX—LIFETIME SAVINGS ACCOUNTS

''SEC. 530A. LIFETIME SAVINGS ACCOUNTS.

''(a) GENERAL RULE.—A Lifetime Savings Account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) LIFETIME SAVINGS ACCOUNT.—For purposes of this section, the term 'Lifetime Savings Account' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries and which is designated (in such manner as the Secretary shall prescribe) at the time of the establishment of the trust as a Lifetime Savings Account, but only if the written governing instrument creating the trust meets the following requirements:

''(1) Except in the case of a qualified rollover contribution described in subsection (d)—

''(A) no contribution will be accepted unless it is in cash, and

''(B) contributions will not be accepted for the calendar year in excess of the contribution limit specified in subsection (c)(1).

''(2) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section or who has so demonstrated with respect to any individual retirement plan.

''(3) No part of the trust assets will be invested in life insurance contracts.

''(4) The interest of an individual in the balance of his account is nonforfeitable.

''(5) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(c) TREATMENT OF CONTRIBUTIONS AND DISTRIBUTIONS.—

''(1) CONTRIBUTION LIMIT.—

''(A) IN GENERAL.—The aggregate amount of contributions (other than qualified rollover contributions described in subsection

(d)) for any calendar year to all Lifetime Savings Accounts maintained for the benefit of an individual shall not exceed $5,000.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any calendar year after 2006, the $5,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.

''(2) DISTRIBUTIONS.—Any distribution from a Lifetime Savings Account shall not be includible in gross income.

''(d) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a contribution to a Lifetime Savings Account—

''(1) from another such account of the same beneficiary, but only if such amount is contributed not later than the 60th day after the distribution from such other account,

''(2) from a Lifetime Savings Account of a spouse of the beneficiary of the account to which the contribution is made, but only if such amount is contributed not later than the 60th day after the distribution from such other account, and

''(3) before January 1, 2007, from—

''(A) a qualified tuition program pursuant to section 529(c)(3)(E), or

''(B) a Coverdell education savings account pursuant to section 530(d)(9).

''(e) LOSS OF TAXATION EXEMPTION OF ACCOUNT WHERE BENEFICIARY ENGAGES IN PROHIBITED TRANSACTION.—Rules similar to the rules of paragraph (2) of section 408(e) shall apply to any Lifetime Savings Account.

''(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account or an annuity contract issued by an insurance company qualified to do business in a State shall be treated as a trust under this section if—

''(1) the custodial account or annuity contract would, except for the fact that it is not a trust, constitute a trust which meets the requirements of subsection (b), and

''(2) in the case of a custodial account, the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or annuity contract treated as a trust by reason of the preceding sentence, the person holding the assets of such account or holding such annuity contract shall be treated as the trustee thereof.

''(g) REPORTS.—The trustee of a Lifetime Savings Account shall make such reports regarding such account to the Secretary and to the beneficiary of the account with respect to contributions, distributions, and such other matters as the Secretary may require. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required.''.

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking ''or'' at the end of paragraph (4), by inserting ''or'' at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

''(6) a Lifetime Savings Account (as defined in section 530A),''.

(2) EXCESS CONTRIBUTION.—Section 4973 of such Code is amended by adding at the end the following new subsection:

''(h) EXCESS CONTRIBUTIONS TO LIFETIME SAVINGS ACCOUNTS.—For purposes of this section—

''(1) IN GENERAL.—In the case of Lifetime Savings Accounts (within the meaning of section 530A), the term 'excess contributions' means the sum of—

''(A) the amount by which the amount contributed for the calendar year to such accounts (other than qualified rollover contributions (as defined in section 530A(d))) exceeds the contribution limit under section 530A(c)(1), and

''(B) the amount determined under this subsection for the preceding calendar year, reduced by the excess (if any) of the maximum amount allowable as a contribution under section 530A(c)(1) for the calendar year over the amount contributed to the accounts for the calendar year.

''(2) SPECIAL RULE.—A contribution shall not be taken into account under paragraph (1) if such contribution (together with the amount of net income attributable to such contribution) is returned to the beneficiary before July 1 of the year following the year in which the contribution is made.''.

(c) FAILURE TO PROVIDE REPORTS ON LIFETIME SAVINGS ACCOUNTS.—Paragraph (2) of section 6693(a) of the Internal Revenue Code of 1986 (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding at the end the following new subparagraph:

''(F) section 530A(g) (relating to Lifetime Savings Accounts).''.

(d) ROLLOVERS FROM CERTAIN OTHER TAX-FREE ACCOUNTS.—

(1) QUALIFIED STATE TUITION PLANS.—Paragraph (3) of section 529(c) of the Internal Revenue Code of 1986 (relating to distributions) is amended by adding at the end the following new subparagraph:

''(E) ROLLOVERS TO LIFETIME SAVINGS ACCOUNTS.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply to the qualified portion of any distribution which, before January 1, 2007, and within 60 days of such distribution, is transferred to a Lifetime Savings Account (within the meaning of section 530A) of the designated beneficiary. This subparagraph shall only apply to distributions in accordance with the previous sentence from an account which was in existence with respect to such designated beneficiary on December 31, 2004.

''(ii) QUALIFIED PORTION.—For purposes of this subparagraph, the term 'qualified portion' means the amount equal to the sum of—

''(I) the lesser of $50,000 or the amount which is in the account of the designated beneficiary on December 31, 2004,

''(II) any contributions to such account for the taxable year beginning after December 31, 2004, and before January 1, 2006, and

''(III) any earnings of such account for such year.

''(iii) LIMITATION.—The sum of the amounts taken into account under clause (ii)(II) with respect to all accounts of the designated beneficiary plus any amounts with respect to such designated beneficiary taken into account under section 530(d)(9)(B)(ii) shall not exceed the sum of $5,000 plus the earnings attributable to such amounts.''.

(2) COVERDELL EDUCATION SAVINGS ACCOUNTS.—Subsection (d) of section 530 of such Code (relating to tax treatment of distributions) is amended by inserting at the end the following new paragraph:

''(9) ROLLOVERS TO LIFETIME SAVINGS ACCOUNTS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to the qualified portion of any amount paid or distributed from a Coverdell education savings account to the extent that the amount received is paid, before January 1, 2007, and not later than the 60th day after the date of such payment or distribution, into a Lifetime Savings Account (within the meaning of section 530A) for the benefit of the same beneficiary. This paragraph shall only apply to amounts paid or distributed in accordance with the preceding sentence from an account which was in existence with respect to such beneficiary on December 31, 2004.

''(B) QUALIFIED PORTION.—For purposes of this paragraph, the term 'qualified portion' means the amount equal to the sum of—

''(i) the amount which is in the account of the beneficiary on December 31, 2004,

''(ii) any contributions to such account for the taxable year beginning after December 31, 2004, and before January 1, 2006 and

''(iii) any earnings of such account for such year.

''(C) LIMITATION.—The sum of the amounts taken into account under subparagraph (B)(ii) with respect to all accounts of the beneficiary plus any amounts with respect to such beneficiary taken into account under section 529(c)(3)(E)(ii)(II) shall not exceed the sum of $5,000 plus the earnings attributable to such amounts.''.

(e) CONFORMING AMENDMENT.—The table of parts for subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''PART IX. LIFETIME SAVINGS ACCOUNTS''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

S. 546

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Retirement Savings Account Act''.

(b) AMENDMENT OF 1986 CODE.—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.

SEC. 2. RETIREMENT SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 408A (relating to Roth IRAs) is amended to read as follows:

''SEC. 408A. RETIREMENT SAVINGS ACCOUNTS.

''(a) IN GENERAL.—Except as provided in this section, a retirement savings account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(b) RETIREMENT SAVINGS ACCOUNT.—For purposes of this title, the term 'retirement savings account' means an individual retirement plan (as defined in section 7701(a)(37)) which—

''(1) is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as a retirement savings account, and

''(2) does not accept any contribution (other than a qualified rollover contribution) which is not in cash.

''(c) TREATMENT OF CONTRIBUTIONS.—

''(1) CONTRIBUTION LIMIT.—Notwithstanding subsections (a)(1) and (b)(2)(A) of section 408, the aggregate amount of contributions for any taxable year to all retirement savings accounts maintained for the benefit of an individual shall not exceed the lesser of—

''(A) $5,000, or

''(B) the amount of compensation includible in the individual's gross income for such taxable year.

''(2) SPECIAL RULE FOR CERTAIN MARRIED INDIVIDUALS.—In the case of any individual who files a joint return for the taxable year, the amount taken into account under paragraph (1)(B) shall be increased by the excess (if any) of—

''(A) the compensation includible in the gross income of such individual's spouse for the taxable year, over

''(B) the aggregate amount of contributions for the taxable year to all retirement savings accounts maintained for the benefit of such spouse.

''(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to a retirement savings account may be made even after the individual for whom the account is maintained has attained age 70½.

''(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY BEFORE DEATH.—Notwithstanding subsections (a)(6) and (b)(3) of section 408 (relating to required distributions), the following provisions shall not apply to any retirement savings account:

''(A) Section 401(a)(9)(A).

''(B) The incidental death benefit requirements of section 401(a).

''(5) ROLLOVER CONTRIBUTIONS.—

''(A) IN GENERAL.—No rollover contribution may be made to a retirement savings account unless it is a qualified rollover contribution.

''(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (1).

''(6) ROLLOVERS FROM PLANS WITH TAXABLE DISTRIBUTIONS.—

''(A) IN GENERAL.—Notwithstanding sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16), in the case of any contribution to which this paragraph applies—

''(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

''(ii) section 72(t) shall not apply, and

''(iii) unless the taxpayer elects not to have this clause apply for any taxable year, any amount required to be included in gross income for such taxable year by reason of this paragraph for any contribution before January 1, 2007, shall be so included ratably over the 4-taxable year period beginning with such taxable year.

Any election under clause (iii) for any contributions during a taxable year may not be changed after the due date (including extensions of time) for filing the taxpayer's return for such taxable year.

''(B) CONTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any qualified rollover contribution to a retirement savings account (other than a rollover contribution from another such account).

''(C) CONVERSIONS OF IRAS.—The conversion of an individual retirement plan (other than a retirement savings account) to a retirement savings account shall be treated for purposes of this paragraph as a contribution to which this paragraph applies.

''(D) ADDITIONAL REPORTING REQUIREMENTS.—Trustees and plan administrators of eligible retirement plans (as defined in section 402(c)(8)(B)) and retirement savings accounts shall report such information as the Secretary may require to ensure that amounts required to be included in gross income under subparagraph (A) are so included. Such reports shall be made at such time and in such form and manner as the Secretary may require. The Secretary may provide that such information be included as additional information in reports required under section 408(i) or 6047.

''(E) SPECIAL RULES FOR CONTRIBUTIONS TO WHICH A 4-YEAR AVERAGING APPLIES.—In the case of a qualified rollover contribution to which subparagraph (A)(iii) applied, the following rules shall apply:

''(i) ACCELERATION OF INCLUSION.—

''(I) IN GENERAL.—The amount required to be included in gross income for each of the first 3 taxable years in the 4-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from retirement savings accounts for such taxable year which are allocable under subsection (d)(3) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

''(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 4-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.

''(ii) DEATH OF DISTRIBUTEE.—

''(I) IN GENERAL.—If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

''(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subclause (I) acquires the individual's entire interest in any retirement savings account to which such qualified rollover contribution is properly allocable, the spouse may elect to treat the remaining amounts described in subclause (I) as includible in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible. Any such election may not be made or changed after the due date (including extensions of time) for filing the spouse's return for the taxable year which includes the date of death.

''(F) 5-YEAR HOLDING PERIOD RULES.—If—

''(i) any portion of a distribution from a retirement savings account is properly allocable to a qualified rollover contribution with respect to which an amount is includible in gross income under subparagraph (A)(i),

''(ii) such distribution is made during the 5-taxable year period beginning with the taxable year for which such contribution was made, and

''(iii) such distribution is not described in clause (i), (ii), or (iii) of subsection (d)(2)(A),

then section 72(t) shall be applied as if such portion were includible in gross income.

''(7) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to a retirement savings account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

''(8) COST-OF-LIVING ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2006, the $5,000 amount under paragraph (1)(A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) 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 2005' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING RULES.—If any amount after adjustment under subparagraph (A) is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.

''(d) DISTRIBUTION RULES.—For purposes of this title—

''(1) EXCLUSION.—Any qualified distribution from a retirement savings account shall not be includible in gross income.

''(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

''(i) made on or after the date on which the individual attains age 58,

''(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

''(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

''(iv) to which section 72(t)(2)(F) applies (if such payment or distribution is made before January 1, 2009).

''(B) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AND EARNINGS.—The term 'qualified distribution' shall not include any distribution of any contribution described in section 408(d)(4) and any net income allocable to the contribution.

''(3) ORDERING RULES.—For purposes of applying this section and section 72 to any distribution from a retirement savings account, such distribution shall be treated as made—

''(A) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the retirement savings account, does not exceed the aggregate contributions to the retirement savings account, and

''(B) from such contributions in the following order:

''(i) Contributions other than qualified rollover contributions with respect to which an amount is includible in gross income under subsection (c)(6)(A)(i).

''(ii) Qualified rollover contributions with respect to which an amount is includible in gross income under subsection (c)(6)(A)(i) on a first-in, first-out basis.

Any distribution allocated to a qualified rollover contribution under subparagraph (B)(ii) shall be allocated first to the portion of such contribution required to be included in gross income.

''(4) AGGREGATION RULES.—Section 408(d)(2) shall be applied separately with respect to retirement savings accounts and other individual retirement plans.

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified rollover contribution' means—

''(A) a rollover contribution to a retirement savings account of an individual from another such account of such individual or such individual's spouse, or from an individual retirement plan of such individual, but only if such rollover contribution meets the requirements of section 408(d)(3), and

''(B) a rollover contribution described in section 402(c), 402A(c)(3)(A), 403(a)(4), 403(b)(8), or 457(e)(16).

''(2) COORDINATION WITH LIMITATION ON IRA ROLLOVERS.—For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a retirement savings account) to a retirement savings account.

''(f) INDIVIDUAL RETIREMENT PLAN.—For purposes of this section—

''(1) a simplified employee pension or a simple retirement account may not be designated as a retirement savings account, and

''(2) contributions to any such pension or account shall not be taken into account for purposes of subsection (c)(1).

''(g) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income (as defined in section 401(c)(2)). Such term does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation. Such term shall include any amount includible in the individual's gross income under section 71 with respect to a divorce or separation instrument described in section 71(b)(2)(A). For purposes of this subsection, section 401(c)(2) shall be applied as if the term trade or business for purposes of section 1402 included service described in section 1402(c)(6).''.

(b) ROTH IRAS TREATED AS RETIREMENT SAVINGS ACCOUNTS.—In the case of any taxable year beginning after December 31, 2005, any Roth IRA (as defined in section 408A(b) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) shall be treated for purposes of such Code as having been designated at the time of the establishment of the plan as a retirement savings account under section 408A(b) of such Code (as amended by this section).

(c) CONTRIBUTIONS TO OTHER INDIVIDUAL RETIREMENT PLANS PROHIBITED.—

(1) INDIVIDUAL RETIREMENT ACCOUNTS.—Paragraph (1) of section 408(a) is amended to read as follows:

''(1) Except in the case of a simplified employee pension, a simple retirement account, or a rollover contribution described in subsection (d)(3) or in section 402(c), 403(a)(4), 403(b)(8), or 457(e)(16), no contribution will be accepted on behalf of any individual for any taxable year beginning after December 31, 2005. In the case of any simplified employee pension or simple retirement account, no contribution will be accepted unless it is in cash and contributions will not be accepted for the taxable year on behalf of any individual in excess of—

''(A) in the case of a simplified employee pension, the amount of the limitation in effect under section 415(c)(1)(A), and

''(B) in the case of a simple retirement account, the sum of the dollar amount in effect under subsection (p)(2)(A)(ii) and the employer contribution required under subparagraph (A)(iii) or (B)(i) of subsection (p)(2).''.

(2) INDIVIDUAL RETIREMENT ANNUITIES.—Paragraph (2) of section 408(b) is amended—

(A) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively, and by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

''(A) except in the case of a simplified employee pension, a simple retirement account, or a rollover contribution described in subsection (d)(3) or in section 402(c), 403(a)(4), 403(b)(8), or 457(e)(16), a premium shall not be accepted on behalf of any individual for any taxable year beginning after December 31, 2005,'', and

(B) by amending subparagraph (C), as redesignated by subparagraph (A), to read as follows:

''(C) the annual premium on behalf of any individual will not exceed—

''(i) in the case of a simplified employee pension, the amount of the limitation in effect under section 415(c)(1)(A), and

''(ii) in the case of a simple retirement account, the sum of the dollar amount in effect under subsection (p)(2)(A)(ii) and the employer contribution required under subparagraph (A)(iii) or (B)(i) of subsection (p)(2), and''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 219 is amended to read as follows:

''SEC. 219. CONTRIBUTIONS TO CERTAIN RETIREMENT PLANS ALLOWING ONLY EMPLOYEE CONTRIBUTIONS.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount contributed on behalf of such individual to a plan described in section 501(c)(18).

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount allowable as a deduction under subsection (a) to any individual for any taxable year shall not exceed the lesser of—

''(1) $7,000, or

''(2) an amount equal to 25 percent of the compensation (as defined in section 415(c)(3)) includible in the individual's gross income for such taxable year.

''(c) BENEFICIARY MUST BE UNDER AGE 70½.—No deduction shall be allowed under this section with respect to any contribution on behalf of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

''(d) SPECIAL RULES.—

''(1) MARRIED INDIVIDUALS.—The maximum deduction under subsection (b) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

''(2) REPORTS.—The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions.

''(e) CROSS REFERENCE.—For failure to provide required reports, see section 6652(g).''.

(B) Section 25B(d) is amended—

(i) in paragraph (1)(A), by striking ''(as defined in section 219(e))'', and

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

''(3) QUALIFIED RETIREMENT CONTRIBUTION.—The term 'qualified retirement contribution' means—

''(A) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

''(B) any amount contributed on behalf of any individual to a plan described in section 501(c)(18).''.

(C) Section 86(f)(3) is amended by striking ''section 219(f)(1)'' and inserting ''section 408A(g)''.

(D) Section 132(m)(3) is amended by inserting ''(as in effect on the day before the date of the enactment of the Retirement Savings Account Act)'' after ''section 219(g)(5)''.

(E) Subparagraphs (A), (B), and (C) of section 220(d)(4) are each amended by inserting '', as in effect on the day before the date of the enactment of the Retirement Savings Account Act'' at the end.

(F) Section 408(b) is amended in the last sentence by striking ''section 219(b)(1)(A)'' and inserting ''paragraph (2)(C)''.

(G) Section 408(p)(2)(D)(ii) is amended by inserting ''(as in effect on the day before the date of the enactment of the Retirement Savings Account Act)'' after ''section 219(g)(5)''.

(H) Section 409A(d)(2) is amended by inserting ''(as in effect on the day before the date of the enactment of the Retirement Savings Account Act)'' after ''subparagraph (A)(iii))''.

(I) Section 501(c)(18)(D)(i) is amended by striking ''section 219(b)(3)'' and inserting ''section 219(b)''.

(J) Section 6652(g) is amended by striking ''section 219(f)(4)'' and inserting ''section 219(d)(2)''.

(K) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 219 and inserting the following new item:

''Sec. 219. Contributions to certain retirement plans allowing only employee contributions.''.

(2)(A) Section 408(d)(4)(B) is amended to read as follows:

''(B) no amount is excludable from gross income under subsection (h) or (k) of section 402 with respect to such contribution, and''.

(B) Section 408(d)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—In the case of any individual, if the aggregate contributions (other than rollover contributions) paid for any taxable year to an individual retirement account or for an individual retirement annuity do not exceed the dollar amount in effect under subsection (a)(1) or (b)(2)(C), as the case may be, paragraph (1) shall not apply to the distribution of any such contribution to the extent that such contribution exceeds the amount which is excludable from gross income under subsection (h) or (k) of section 402, as the case may be, for the taxable year for which the contribution was paid—

''(i) if such distribution is received after the date described in paragraph (4),

''(ii) but only to the extent that such excess contribution has not been excluded from gross income under subsection (h) or (k) of section 402.''.

(C) Section 408(d)(5) is amended by striking the last sentence.

(D) Section 408(d)(7) is amended to read as follows:

''(7) CERTAIN TRANSFERS FROM SIMPLIFIED EMPLOYEE PENSIONS PROHIBITED UNTIL DEFERRAL TEST MET.—Notwithstanding any other provision of this subsection or section 72(t), paragraph (1) and section 72(t)(1) shall apply to the transfer or distribution from a simplified employee pension of any contribution under a salary reduction arrangement described in subsection (k)(6) (or any income allocable thereto) before a determination as to whether the requirements of subsection (k)(6)(A)(iii) are met with respect to such contribution.''.

(E) Section 408 is amended by striking subsection (j).

(F)(i) Section 408 is amended by striking subsection (o).

(ii) Section 6693 is amended by striking subsection (b) and by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(G) Section 408(p) is amended by striking paragraph (8) and by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(3)(A) Section 4973(a)(1) is amended to read as follows:

''(1) an individual retirement plan,''.

(B) Section 4973(b) is amended to read as follows:

''(b) EXCESS CONTRIBUTIONS TO SIMPLIFIED EMPLOYEE PENSIONS AND SIMPLE RETIREMENT ACCOUNTS.—For purposes of this section, in the case of simplified employee pensions or simple retirement accounts, the term 'excess contributions' means the sum of—

''(1) the excess (if any) of—

''(A) the amount contributed for the taxable year to the pension or account, over

''(B) the amount applicable to the pension or account under subsection (a)(1) or (b)(2) of section 408, and

''(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

''(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

''(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and

''(C) the excess (if any) of the maximum amount excludable from gross income for the

taxable year under subsection (h) or (k) of section 402 over the amount contributed to the pension or account for the taxable year.

For purposes of this subsection, any contribution which is distributed from a simplified employee pension or simple retirement account in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed.''.

(C) Section 4973 is amended by adding at the end the following new subsection:

''(h) EXCESS CONTRIBUTIONS TO CERTAIN INDIVIDUAL RETIREMENT PLANS.—For purposes of this section, in the case of individual retirement plans (other than retirement savings accounts, simplified employee pensions, and simple retirement accounts), the term 'excess contribution' means the sum of—

''(1) the aggregate amount contributed for the taxable year to the individual retirement plans, and

''(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

''(A) the distributions out of the plans which were included in gross income under section 408(d)(1), and

''(B) the distributions out of the plans for the taxable year to which section 408(d)(5) applies.

For purposes of this subsection, any contribution which is distributed from the plan in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed.''.

(4)(A) Sections 402(c)(8)(B), 402A(c)(3)(A)(ii), 1361(c)(2)(A), 3405(e)(1)(B), and 4973(f) are each amended by striking ''Roth IRA'' each place it appears and inserting ''retirement savings account''.

(B) Section 4973(f)(1)(A) is amended by striking ''Roth IRAs'' and inserting ''retirement savings accounts''.

(C) Paragraphs (1)(B) and (2)(B) of section 4973(f) are each amended by striking ''sections 408A(c)(2) and (c)(3)'' and inserting ''section 408A(c)(1)''.

(D) Subsection (f) of section 4973 is amended in the heading by striking ''ROTH IRAS'' and inserting ''RETIREMENT SAVINGS ACCOUNTS''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

S. 547

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

SECTION 1. EMPLOYER RETIREMENT SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part 1 of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 401 the following new section:

''SEC. 401A. EMPLOYER RETIREMENT SAVINGS ACCOUNTS.

''(a) IN GENERAL.—A defined contribution plan shall not fail to meet the requirements of section 401(a) merely because the plan includes an employer retirement savings account arrangement.

''(b) EMPLOYER RETIREMENT SAVINGS ACCOUNT ARRANGEMENT.—An employer retirement savings account arrangement is any arrangement which is part of a plan which meets the requirements of section 401(a)—

''(1) under which a covered employee may elect to have the employer make payments as contributions to a trust under the plan on behalf of the employee, or to the employee directly in cash,

''(2) under which amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election—

''(A) may not be distributable to participants or other beneficiaries earlier than—

''(i) severance from employment, death, or disability,

''(ii) an event described in subsection (g),

''(iii) the attainment of age 59½, or

''(iv) upon hardship of the employee, and

''(B) will not be distributable merely by reason of the completion of a stated period of participation or the lapse of a fixed number of years,

''(3) which provides that an employee's right to the employee's accrued benefit derived from employer contributions made to the trust pursuant to the employee's election is nonforfeitable, and

''(4) which does not require, as a condition of participation in the arrangement, that an employee complete a period of service with the employer (or employers) maintaining the plan extending beyond the period permitted under section 410(a)(1) (determined without regard to subparagraph (B)(i) thereof).

''(c) APPLICATION OF NONDISCRIMINATION STANDARDS.—

''(1) CONTRIBUTION PERCENTAGE REQUIREMENT.—An arrangement shall not be treated as an employer retirement savings account arrangement for any plan year unless—

''(A) the contribution percentage for eligible highly compensated employees for the plan year does not exceed 200 percent of such percentage for all other eligible employees for the preceding plan year, or

''(B) the contribution percentage of nonhighly compensated employees for the preceding plan year exceeded 6 percent.

''(2) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

''(A) IN GENERAL.—An arrangement shall be treated as meeting the requirements of paragraph (1)(A) if such arrangement—

''(i) meets the contribution requirements of subparagraph (B), and

''(ii) meets the notice requirements of subparagraph (D).

''(B) CONTRIBUTION REQUIREMENT.—The requirements of this subparagraph are met if, under the arrangement, the employer is required to make contributions to a defined contribution plan on behalf of each eligible employee who is not a highly compensated employee in an amount equal to at least 3 percent of the employee's compensation. For purposes of this subparagraph, elective deferrals and employee contributions shall not be taken into account in determining the amount of contributions the employer makes to the plan.

''(C) SPECIAL RULES FOR MATCHING CONTRIBUTIONS.—

''(i) IN GENERAL.—If an employer takes matching contributions into account for purposes of subparagraph (B), the requirements of such subparagraph shall be treated as met only if the matching contributions on behalf of each employee who is not a highly compensated employee are equal to 50 percent of the elective deferrals of the employee to the extent that such elective deferrals do not exceed 6 percent of the employee's compensation.

''(ii) ALTERNATIVE PLAN DESIGNS.—If the rate of any matching contribution with respect to any rate of elective deferral is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

''(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contributions increases, and

''(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

''(iii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the rate of matching contribution with respect to any elective deferral of a highly compensated employee at any rate of elective deferral is greater than that with respect to an employee who is not a highly compensated employee.

''(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this subparagraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

''(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

''(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

''(E) OTHER REQUIREMENTS.—

''(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) unless the requirements of paragraphs (2) and (3) of subsection (b) are met with respect to all employer contributions (including matching contributions) taken into account in determining whether the requirements of subparagraph (B) are met.

''(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) unless such requirements are met without regard to section 401(l), and, for purposes of section 401(l), employer contributions under subparagraph (B) shall not be taken into account.

''(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements of subparagraph (B) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.

''(3) CONTRIBUTION PERCENTAGE.—For purposes of paragraph (1), the contribution percentage for an eligible employee for a specified group of employees for a plan year shall be the average of the ratios (calculated separately for each employee in such group) of—

''(A) the sum of the elective deferrals, matching contributions, employee contributions, and qualified nonelective contributions paid under the plan on behalf of each such employee for such plan year, to

''(B) the employee's compensation for such plan year.

''(4) SPECIAL RULES.—For purposes of this subsection—

''(A) MULTIPLE ARRANGEMENTS.—If 2 or more plans which include employer retirement savings account arrangements are considered as 1 plan for purposes of section 401(a)(4) or 410(b), all such arrangements included in such plans shall be treated as 1 arrangement.

''(B) EMPLOYEES IN MORE THAN 1 ARRANGEMENT.—If any highly compensated employee is a participant under 2 or more employer retirement savings account arrangements of the employer, for purposes of determining the contribution percentage with respect to such employee, all such arrangements shall be treated as 1 arrangement.

''(C) USE OF CURRENT YEAR.—An employer may elect to apply paragraph (1) (A) or (B) by using the plan year rather than the preceding plan year. An employer may change such an election only with the consent of the Secretary.

''(D) 1ST PLAN YEAR.—In the case of the first plan year of any plan (other than a successor plan), the amount taken into account as the contribution percentage of nonhighly compensated employees for the preceding plan year shall be—

''(i) 3 percent, or

''(ii) if the employer makes an election under this clause, the contribution percentage of nonhighly compensated employees determined for such first plan year.

''(E) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether an employer retirement savings account arrangement meets the requirements of section 410(b)(1), the employer may, in determining whether the arrangement meets the requirements of this subsection, exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).

''(5) EXCEPTIONS.—

''(A) GOVERNMENTAL PLANS.—A governmental plan (within the meaning of section 414(d)) maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof) shall be treated as meeting the requirements of this subsection.

''(B) TAX EXEMPT PLANS.—

''(i) IN GENERAL.—A plan not described in subparagraph (A) which is maintained by an organization described in section 501(c)(3) shall be treated as meeting the requirements of this subsection for any plan year if the plan provides that all employees of such organization may elect to have the employer make contributions of more than $200 pursuant to a salary reduction agreement if any employee of the organization may elect to have the organization make contributions pursuant to such agreement.

''(ii) EXCEPTION.—Clause (i) shall not apply to any plan if under the plan—

''(I) matching contributions may be made on behalf of any employee, or

''(II) an employee may make contributions other than elective deferrals.

''(iii) EXCLUSION.—For purposes of clause (i), there may be excluded any employee who is—

''(I) a participant in another employer retirement savings account arrangement of the organization,

''(II) a nonresident alien described in section 410(b)(3)(C), or

''(III) subject to the conditions applicable under section 410(b)(4), a student performing services described in section 3121(b)(10) or an employee who normally works less than 20 hours per week.

''(6) COORDINATION WITH SUBSECTION (a)(4).—A cash or deferred arrangement shall be treated as meeting the requirements of subsection (a)(4) with respect to contributions if the requirements of paragraph (1) are met.

''(d) OTHER REQUIREMENTS.—For purposes of this section—

''(1) BENEFITS (OTHER THAN MATCHING CONTRIBUTIONS) MUST NOT BE CONTINGENT ON ELECTION TO DEFER.—An employer retirement savings account arrangement of any employer shall not be treated as such an arrangement if any other benefit is conditioned (directly or indirectly) on the employee electing to have the employer make or not make contributions under the arrangement in lieu of receiving cash. The preceding sentence shall not apply to any matching contribution made by reason of such an election.

''(2) COORDINATION WITH OTHER PLANS.—Any employer contribution made pursuant to an employee's election under an employer retirement savings account arrangement shall not be taken into account for purposes of determining whether any other plan meets the requirements of section 401(a) or 410(b). This paragraph shall not apply for purposes of determining whether a plan meets the average benefit requirement of section 410(b)(2)(A)(ii).

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

''(1) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means any employee who is eligible to benefit under the employer retirement savings account arrangement.

''(2) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q).

''(3) MATCHING CONTRIBUTION.—The term 'matching contribution' means—

''(A) any employer contribution made to a defined contribution plan on behalf of an employee on account of an employee contribution made by such employee, and

''(B) any employer contribution made to a defined contribution plan on behalf of an employee on account of an employee's elective deferral.

''(4) ELECTIVE DEFERRAL.—The term 'elective deferral' means any employer contribution described in section 402(g)(3).

''(5) QUALIFIED NONELECTIVE CONTRIBUTIONS.—The term 'qualified nonelective contribution' means any employer contribution (other than a matching contribution) with respect to which—

''(A) the employee may not elect to have the contribution paid to the employee in cash instead of being contributed to the plan, and

''(B) the requirements of paragraphs (2) and (3) of subsection (b) are met.

''(6) COMPENSATION.—The term 'compensation' has the meaning given such term by section 414(s).

''(f) ARRANGEMENT NOT DISQUALIFIED IF EXCESS CONTRIBUTIONS DISTRIBUTED.—

''(1) IN GENERAL.—An employer retirement savings account arrangement shall not be treated as failing to meet the requirements of subsection (c)(1)(A) for any plan year if, before the close of the following plan year—

''(A) the amount of the excess contributions for such plan year (and any income allocable to such contributions) is distributed, or

''(B) to the extent provided in regulations, the employee elects to treat the amount of the excess contributions as an amount distributed to the employee and then contributed by the employee to the plan.

Any distribution of excess contributions (and income) may be made without regard to any other provision of law.

''(2) EXCESS CONTRIBUTIONS.—For purposes of paragraph (1), the term 'excess contributions' means, with respect to any plan year, the excess of—

''(A) the aggregate amount of employer contributions actually paid over to the trust on behalf of highly compensated employees for such plan year, over

''(B) the maximum amount of such contributions permitted under the limitations of subsection (c)(1)(A) (determined by reducing contributions made on behalf of highly compensated employees in order of the contribution percentages beginning with the highest of such percentages).

''(3) METHOD OF DISTRIBUTING EXCESS CONTRIBUTIONS.—Any distribution of the excess contributions for any plan year shall be made to highly compensated employees on the basis of the amount of contributions by, or on behalf of, each of such employees.

''(4) ADDITIONAL TAX UNDER SECTION 72(t) NOT TO APPLY.—No tax shall be imposed under section 72(t) on any amount required to be distributed under this subsection.

''(5) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—For purposes of subsection (b)(3), a matching contribution shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under paragraph (2) or an excess deferral under section 402(g)(2)(A).

''(6) CROSS REFERENCE.—For excise tax on certain excess contributions, see section 4979.

''(g) DISTRIBUTIONS UPON TERMINATION OF PLAN.—

''(1) IN GENERAL.—An event described in this subsection is the termination of the plan without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).

''(2) DISTRIBUTIONS MUST BE LUMP SUM DISTRIBUTIONS.—

''(A) IN GENERAL.—A termination shall not be treated as described in paragraph (1) with respect to any employee unless the employee receives a lump sum distribution by reason of the termination.

''(B) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph, the term 'lump-sum distribution' has the meaning given such term by section 402(e)(4)(D) (without regard to subclauses (I), (II), (III), and (IV) of clause (i) thereof). Such term includes a distribution of an annuity contract from—

''(i) a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501(a), or

''(ii) an annuity plan described in section 403(a).

''(h) SPECIAL RULES FOR SMALL EMPLOYERS.—

''(1) IN GENERAL.—An arrangement maintained by an eligible employer shall not fail to meet the requirements of this section merely because contributions under the arrangement on behalf of any employee are made to an individual retirement plan (as defined under section 7701(a)(37)) established on behalf of the employee.

''(2) ELIGIBLE EMPLOYER.—For purposes of paragraph (1), the term 'eligible employer' means, with respect to any year, an employer which had no more than 10 employees who received at least $5,000 of compensation from the employer for the preceding year. An eligible employer who establishes and maintains an arrangement under this subsection for 1 or more years and who fails to be an eligible employer for any subsequent year shall be treated as an eligible employer for the 2 years following the last year the employer was an eligible employer. If such failure is due to any acquisition, disposition, or similar transaction involving an eligible employer, the preceding sentence shall not apply.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations permitting appropriate aggregation of plans and contributions.

''(j) TRANSITION RULES.—

''(1) DEEMED ERSAS.—Any arrangement which, as of December 31, 2005—

''(A) is part of a plan meeting the requirements of section 401(a), and

''(B) is—

''(i) a qualified cash or deferred arrangement (as defined in section 401(k)(2)), or

''(ii) subject to the requirements of section 401(m),

shall be treated as an employer retirement savings account arrangement and subject to the requirements of this title applicable to such an arrangement for plan years beginning after December 31, 2005.

''(2) ELECTABLE ERSAS.—

''(A) IN GENERAL.—If an employer makes an election under this paragraph with respect to

any applicable arrangement, such arrangement shall be treated as an employer retirement savings account arrangement and subject to the requirements of this title applicable to such an arrangement for plan years beginning after December 31, 2005.

''(B) APPLICABLE ARRANGEMENT.—For purposes of subparagraph (A), the term 'applicable arrangement' means an arrangement which, as of December 31, 2005, is—

''(i) an arrangement under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(ii) an eligible deferred compensation plan (within the meaning of section 457(b)) maintained by an eligible employer described in section 457(e)(1)(A),

''(iii) a simplified employee pension (within the meaning of section 408(k)) for which an election is in effect under paragraph (6) thereof, or

''(iv) a simple retirement account (within the meaning of section 408(p).''.

(b) ELECTIVE DEFERRALS.—Section 402 of such Code is amended—

(1) in subsection (e)(3), by inserting '', an employer retirement savings account arrangement (as defined in section 401A(b)),'' after ''section 401(k)(2))'' , and

(2) in subsection (g)(3)(A), by inserting '', or an employer retirement savings account arrangement (as defined in section 401A(b)),'' before ''to the extent''.

(c) TERMINATION OF CONTRIBUTIONS TO OTHER PLANS.—

(1) 401(k) PLANS.—Section 401(k) of such Code is amended by adding at the end the following new paragraph:

''(13) TERMINATION.—This subsection shall not apply to any plan year beginning after December 31, 2005.''.

(2) 403(b) ANNUITY CONTRACTS.—Section 403(b) of such Code is amended by adding at the end the following new paragraph:

''(14) TERMINATION.—No elective deferral (as defined in section 402(g)(3)) may be contributed under this subsection by an employer, and no amount may be transferred under an eligible rollover, for an annuity contract after December 31, 2006.''.

(3) GOVERNMENTAL 457 PLANS.—Section 457 of such Code is amended by adding at the end the following new subsection:

''(h) TERMINATION.—No amount may be deferred under this subsection under a plan maintained by an eligible employer described in subsection (e)(1)(A), and no amount may be transferred under an eligible rollover to an eligible deferred compensation plan maintained by such an employer, after December 31, 2006.''.

(4) SARSEPS.—Subparagraph (H) of section 408(k)(6) of such Code is amended by adding at the end the following new sentence: ''No amount may be contributed under this paragraph to a simplified employee pension by an employer, and no amount may be transferred to a simplified employee pension maintained under this paragraph under an eligible rollover, after December 31, 2006.''.

(5) SIMPLE IRAS.—Section 408(p) of such Code is amended by adding at the end the following new paragraph:

''(11) TERMINATION.—No amount may be contributed under this paragraph to a simple retirement account after December 31, 2006.''.

(d) OTHER CONFORMING CHANGES.—

(1) Section 401 of such Code is amended by striking subsection (m).

(2) Section 7701(j) of such Code (relating to tax treatment of Federal Thrift Savings Fund) is amended—

(A) in paragraph (1)(C), by striking ''section 401(k)(4)(B)'' and inserting ''section 401A(d)(1)'', and

(B) in paragraph (2), by striking ''section 401(k)'' and inserting ''section 401A''.

(3) The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, submit such technical and other conforming changes as are necessary to carry out the amendments made by this section.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part 1 of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 401 the following new item:

''Sec. 401A. Employer Retirement Savings Accounts.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2005.

(g) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(C)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 401A of the Internal Revenue Code of 1986 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) GOVERNMENTAL PLAN.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subparagraph (A) shall be applied by substituting ''2009'' for ''2007''.

(C) CONDITIONS.—This subsection shall not apply to any amendment unless—

(i) during the period—

(I) beginning on the date the legislative or regulatory amendment described in subparagraph (A)(i) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

By Mr. CORZINE (for himself, Mr. OBAMA, Ms. SNOWE, Mr. BINGAMAN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. DODD, Mr. DURBIN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. SCHUMER, Mr. SMITH, and Mr. KERRY):

S. 550. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Microbicides Development Act of 2005. I am very pleased to be introducing this bipartisan bill along with my colleagues, Senators SNOWE, OBAMA, BINGAMAN, CANTWELL, CLINTON, DODD, DURBIN, FEINSTEIN, KENNEDY, LAUTENBERG, LEAHY, MIKULSKI, MURRAY, SCHUMER, and SMITH. I thank my colleagues for their support of this important legislation, which we believe is vital to the pursuit of combating the global HIV/AIDS crisis.

Today we are celebrating International Women's Day. Not only should we celebrate the achievements of women nationally and globally today, but we should also promise to redouble our efforts to improve the lives of women around the globe. I can't think of an issue more deserving of our attention in the United States Senate than that of the toll that HIV/AIDS is having on women and their children around the world.

Today, nearly half of the 37 million adults now living with HIV worldwide are women. The U.N.'s new Epidemic Update released in late 2004 shows that women and girls are increasingly affected by the disease in each region of the world and the epidemic continues to worsen. Women are the new face of AIDS. Approximately 7,000 women are infected with HIV everyday. The biggest rise in HIV/AIDS among women is occurring in East Asia, which has seen a 56 percent infection rate increase, followed by the region of Eastern Europe and Central Asia.

Notably, these are areas of the world that are not currently included in the President's AIDS initiative (PEPFAR). I would like to note that later this week I will be introducing legislation to make India eligible for PEPFAR assistance. It is estimated that by 2010, India could have 20 million HIV infected individuals up from five million currently and women are at the center of the rapid growth of the disease.

I would like to quote from a recent news article in USA Today, which discusses the HIV/AIDS vulnerabilities that women confront.

''In this male-dominated society, ironclad traditions surrounding marriage leave women little say over their sexual or reproductive lives. So many married men bring HIV home to their wives that married women are one of India's highest-risk groups. Nearly half of all new HIV infections occur in women, and studies indicate that 90 percent of women with HIV were virgins when they married and remained faithful to their husbands.''

This statement describes the plight of women in so many societies and countries where women simply do not have the economic or political power to insist that their husbands use condoms or abstain from having sex outside of marriage. The typical woman who gets infected with HIV has only one partner—her husband. This trend devastates families and puts children at risk.

This astounding reality bears restating: The single greatest risk factor for a woman in the developing world of

contracting the HIV virus is being married.

Women need HIV-prevention tools that they can control to safeguard their health and that of their families and communities. Unfortunately, there exists absolutely no HIV or STD prevention method that is within a woman's personal control. Condom use must be negotiated with a partner. We are all aware that for too many women, particularly low-income women in the developing world and many in our own country who rely upon a male partner for economic support, there is no power of negotiation. We know these women are at risk—yet, we expect them to protect themselves without any tools.

Today we have the opportunity to invest in groundbreaking research that can produce these tools, and ultimately, empower women. Microbicides are self-administered products that women could use to prevent transmission of STDs, including HIV/AIDS. I say ''could'', because due to insufficient research investments, no microbicides have been brought to market. This legislation would expand Federal investments for microbicide research at the National Institutes for Health (NIH), the Centers for Disease Control and Prevention (CDC), and the United States Agency for International Development (USAID).

In addition to encouraging new investments in microbicide research, the Microbicides Development Act will expedite the implementation of the NIH's five-year strategic plan for microbicide research, as well as expand coordination among federal agencies already involved in this research, including NIH, CDC, and the United States Agency on International Development (USAID).

Perhaps most importantly, the legislation calls for the establishment of a Microbicide Research and Development Branch within the National Institute of Allergy and Infectious Diseases.

The National Institutes of Health, principally through the National Institute of Allergy and Infectious Diseases (NIAID), spends the majority of Federal dollars in this area. However, microbicide research at NIH is currently conducted with no single line of administrative accountability or specific funding coordination. In addition, other Federal agencies such as CDC and USAID undertake microbicides research and development activities. Because there is no Federal coordination, however, there is the risk that inefficiencies and duplication of effort could result. Through a variety of committees Congress has requested that NIH and its Office of AIDS Research provide Congress with a ''Federal coordination plan'' for research and development in this area, but formal submission of this plan has been repeatedly delayed.

A unit dedicated to microbicide research and development at the NIH is essential to providing the appropriate staff and funding for the coordination of these activities at the NIH and across agencies.

Microbicides may not be a magic bullet, but they are essential to addressing the HIV/AIDS crisis. With leading scientists concluding that a vaccine is likely to be at least 10 years away, we need to make a strong commitment to developing complementary prevention tools such as microbicides.

Microbicides are a public health good for which the social benefits are high but economic incentives to private investment are low. Despite the potential market size, neither pharmaceutical nor major biotech companies have made large investments in the field because development is costly and the likelihood of finding an effective product is unknown. Like other public health goods, such as vaccines, public funding must fill the gap left by market failure.

The cost of developing the existing pipeline of microbicide candidate products has been estimated at $775 million over five years. This investment should generate a number of safe, effective microbicides by 2010. Currently, however, U.S. Federal funding for microbicides is only about $88.8 million annually and is spread across all areas of microbicide research, not just product development.

As for any pharmaceutical or health care product, the key to developing safe, effective, affordable and accessible microbicides is sufficient investment. If we are to realize the promise of microbicides and the lifesaving properties they may provide, then additional public funding must be made available for research and development. The Microbicide Development Act of 2005 will help us achieve this goal.

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

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

S. 550

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 ''Microbicide Development Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Women and girls are the new face of HIV/AIDS, and are increasingly affected by the disease in each region of the world. Women account for nearly ½ of the 37,000,000 adults living with HIV and AIDS worldwide as of 2005. Approximately 7,000 women are newly infected with HIV each day.

(2) Because of their social and biological vulnerabilities, young women are particularly at risk. In Sub-Saharan Africa, 76 percent of the young people (between ages 15 and 24) with HIV are girls under 20.

(3) When women become infected with HIV, they can pass along the infection to their children during pregnancy, labor and delivery, or breast-feeding. The most effective way to halt mother-to-child transmission is to ensure that mothers are not infected in the first place.

(4) An increasing number of women who become infected with HIV have only 1 sexual partner, their husband. Unfortunately, marriage is not necessarily effective protection against HIV, because to protect themselves from HIV, women have to rely on their male partners to be faithful or to use condoms. Many women in the developing world are unable to insist on mutual monogamy or negotiate condom use, especially in long-term relationships.

(5) Scientists are working on a promising new prevention tool that could slow down the spread of the HIV/AIDS epidemic, microbicides. Formulated as gels, creams, or rings, microbicides inactivate, block, or otherwise interfere with the transmission of the pathogens that cause AIDS and other sexually transmitted diseases (''STD''s). Microbicides could allow a woman to protect herself from disease.

(6) Married couples need a method of HIV protection that will allow them to conceive a child and start a family. No existing HIV prevention method also allows conception. Microbicides are being developed to allow women to both conceive children and protect themselves from HIV.

(7) Households in developing countries often dissolve when a mother dies. In the hardest hit countries, the number of children who are orphaned by AIDS is increasing dramatically.

(8) Women in the United States also need HIV prevention tools like microbicides. AIDS is now the number 1 cause of death among African–American women between the ages of 25 and 34.

(9) In addition to HIV, other STDs continue to be a major health threat in the United States. The United States has the highest rates of sexually transmitted diseases of any industrialized nation. Nineteen million STD infections occur every year. It is estimated that by age 25, ½ of all sexually active people in the United States can expect to be infected with an STD.

(10) HIV and AIDS represent a threat to national security and economic well being, with direct medical costs of up to $15,500,000,000 per year. The pandemic undermines armies, foments unrest, and burdens the United States military.

(11) As the Nation's largest single provider of HIV/AIDS care, the Veterans Affairs health care system spent $359,000,000 to provided care to more than 20,000 American veterans with HIV/AIDS in fiscal year 2004.

(12) The microbicide field has achieved an extraordinary amount of scientific momentum, with several first-generation candidates now in large scale human trials around the world. At same time, new products, based upon recent advances in HIV treatment, have advanced into early safety trials.

(13) Microbicides are a classic public health good for which the social benefits are high but the economic incentive to private investment is low. Like other public health goods, such as vaccines, public funding must fill the gap. Microbicide research depends in large part on Government leadership and investment.

(14) The Federal Government needs to make a strong commitment to microbicide research and development. Three agencies—the National Institutes of Health (''NIH''), the Centers for Disease Control and Prevention (''CDC''), and the United States Agency of International Development (''USAID'')—have played important roles in the progress to date, but further strong, well-coordinated, and visible public sector leadership will be essential for the promise of microbicides to be realized.

(15) As of 2005, microbicide research at NIH is conducted under several institutes with no single line of administrative accountability, no specific funding coordination, and highly

variable levels of interest and commitment across institute leadership. Only a few NIH staff can claim microbicides as their sole focus.

(16) The President's Emergency Plan for AIDS Relief (''PEPFAR'') recognizes the urgency of developing safe and effective microbicides to prevent HIV. In addition, NIH documents state that ''the US government is firmly committed to accelerating the development of safe and effective microbicides to prevent HIV,'' recognizing that microbicides may provide ''one of the most promising preventative interventions given that could be inexpensive, readily available, and widely acceptable''. But as of 2005, NIH spends barely 2 percent of its HIV/AIDS research budget on microbicides. As more microbicide candidates are advanced into later-stage clinical trials and development costs rise correspondingly, 2005 funding levels are simply inadequate.

(17) USAID and the CDC have expanded their microbicide portfolios, but without overall Federal coordination, costly inefficiencies and unproductive duplication of effort may result. USAID sustains strong partnerships with public and private organizations working on microbicide research, importantly including clinical trials in developing countries where its experience is extensive. USAID is well positioned to facilitate the introduction of microbicides once they are available. The CDC also engages in critical microbicide research and clinical testing, and has a long history of conducting field trials in developing countries.

(18) HIV prevention options available as of 2005 are not enough. HIV prevention strategies must recognize women's needs and vulnerabilities. If women are to have a genuine opportunity to protect themselves, their best option is the rapid development of new HIV-prevention technologies like microbicides, which women can initiate and control.

TITLE I—MICROBICIDE RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH

SEC. 101. OFFICE OF AIDS RESEARCH; PROGRAM REGARDING MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

Subpart I of part D of title XXIII of the Public Health Service Act (42 U.S.C. 300cc-40 et seq.) is amended by inserting after section 2351 the following:

''SEC. 2351A. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

''(a) FEDERAL STRATEGIC PLAN.—

''(1) IN GENERAL.—The Director of the Office of AIDS Research shall—

''(A) expedite the implementation of a Federal strategic plan for the conduct and support of microbicide research and development; and

''(B) annually review and, as appropriate, revise such plan, to prioritize funding and activities in terms of their scientific urgency.

''(2) COORDINATION.—In implementing, reviewing, and prioritizing elements of the plan described under paragraph (1), the Director of the Office of AIDS Research shall coordinate with—

''(A) other Federal agencies, including the Director of the Centers for Disease Control and Prevention and the Administrator of the United States Agency for International Development, involved in microbicide research;

''(B) the microbicide research community; and

''(C) health advocates.

''(b) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Office of AIDS Research, acting in coordination with other relevant institutes and offices, shall expand, intensify, and coordinate the activities of all appropriate institutes and components of the National Institutes of Health with respect to research and development of microbicides to prevent the transmission of the human immunodeficiency virus ('HIV') and other sexually transmitted diseases.

''(c) MICROBICIDE DEVELOPMENT UNIT.—In carrying out subsection (b), the Director of the National Institute of Allergy and Infectious Diseases shall establish within the Division of AIDS in the Institute, a clearly defined organizational unit charged with carrying out microbicide research and development. In establishing such unit, the Director shall ensure that there are a sufficient number of employees dedicated to carrying out the mission of the unit.

''(d) MICROBICIDE CLINICAL TRIALS.—In carrying out subsection (c), the Director of the National Institute of Allergy and Infectious Diseases shall assign priority to ensuring adequate funding and support for the integration of basic science and clinical research, with particular emphasis on implementation of trials leading to product licensure.

''(e) REPORTS TO CONGRESS.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Microbicide Development Act, and annually thereafter, the Director of the Office of AIDS Research shall submit to the appropriate committees of Congress a report that describes the strategies being implemented by the Federal Government regarding microbicide research and development.

''(2) CONTENTS OF REPORTS.—Each report submitted under paragraph (1) shall include—

''(A) a description of activities with respect to microbicide research and development conducted and supported by the Federal Government;

''(B) a summary and analysis of the expenditures made by the Director of the Office of AIDS Research during the preceding year for activities with respect to microbicide-specific research and development, including basic research, preclinical product development, clinical trials, and process development and production;

''(C) a description and evaluation of the progress made, during the preceding year, toward the development of effective and acceptable microbicides; and

''(D) a review of scientific and programmatic obstacles to expediting the commercial availability of microbicide products.

''(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' means the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives.

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

TITLE II—MICROBICIDE RESEARCH AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION

SEC. 201. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended—

(1) by transferring section 317R so as to appear after section 317Q; and

(2) by inserting after section 317R (as so transferred) the following:

''SEC. 371S. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

''(a) DEVELOPMENT AND IMPLEMENTATION OF THE MICROBICIDE AGENDA SUPPORTED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Director of the Centers for Disease Control and Prevention shall fully implement such Centers' topical microbicide agenda to support microbicide research and development. Such an agenda shall include—

''(1) conducting laboratory research in preparation for, and support of, clinical microbicide trials;

''(2) conducting behavioral research in preparation for, and support of, clinical microbicide trials;

''(3) developing and characterizing domestic populations and international cohorts appropriate for Phases I, II, and III clinical trials of candidate topical microbicides;

''(4) conducting Phases I and II clinical trials to assess the safety and acceptability of candidate microbicides;

''(5) conducting Phase III clinical trials to assess the efficacy of candidate microbicides;

''(6) providing technical assistance to, and consulting with, a wide variety of domestic and international entities involved in developing and evaluating topical microbicides, including health agencies, extramural researchers, industry, health advocates, and nonprofit organizations; and

''(7) developing and evaluating the diffusion and effects of implementation strategies for use of effective topical microbicides.

''(b) PERSONNEL.—The Centers for Disease Control and Prevention shall ensure that there are sufficient numbers of dedicated employees for carrying out the microbicide agenda under subsection (a).

''(c) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Microbicide Development Act, and annually thereafter, the Director of the Centers for Disease Control and Prevention shall submit to the appropriate committees of Congress, a report on the strategies being implemented by the Centers for Disease Control and Prevention with respect to microbicide research and development. Such report shall be submitted alone or as part of the overall Federal strategic plan on microbicides compiled annually by the National Institutes of Health Office of AIDS Research as required under section 2351A.

''(2) CONTENTS OF REPORT.—Such report shall include—

''(A) a description of activities with respect to microbicides conducted or supported by the Director of the Centers for Disease Control and Prevention;

''(B) a summary and analysis of the expenditures made by such Director during the preceding year, for activities with respect to microbicide-specific research and development, including the number of employees of such Centers involved in such activities;

''(C) a description and evaluation of the progress made, during the preceding year, toward the development of effective and acceptable microbicides; and

''(D) a review of scientific and programmatic obstacles to expediting the commercial availability of microbicide products.

''(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—For the purposes of this subsection, the term 'appropriate committees of Congress' means the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives.

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

TITLE III—MICROBICIDE RESEARCH AT THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

SEC. 301. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.

Section 104A of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b–2) is amended by adding at the end the following new subsection:

''(h) MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER DISEASES.—

''(1) DEVELOPMENT AND IMPLEMENTATION OF THE MICROBICIDE AGENDA.—The head of the Office of HIV/AIDS of the United States Agency for International Development, in conjunction with other offices of such Agency, shall develop and implement a program to support the development of microbicides products for the prevention of the transmission of HIV and other diseases, and facilitate wide-scale availability of such products after such development. The program shall be known as the 'microbicide agenda' and shall include—

''(A) support for the discovery, development, and preclinical evaluation of topical microbicides;

''(B) support for the conduct of clinical studies of candidate microbicides to assess the safety, acceptability, and effectiveness of such microbicides in reducing the transmission of HIV and other sexually transmitted diseases;

''(C) support for behavioral and social science research relevant to microbicide development, testing, acceptability, and use;

''(D) support for preintroductory and introductory studies of safe and effective microbicides in developing countries; and

''(E) facilitation of access to microbicides by women at highest risk of contracting HIV or other sexually transmitted diseases, at the earliest possible time.

''(2) STAFFING.—The head of the Office of HIV/AIDS shall ensure that the Agency has a sufficient number of dedicated employees to carry out the microbicide agenda.

''(3) REPORTS TO CONGRESS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Microbicide Development Act, and annually thereafter, the Administrator of the Agency shall submit to the appropriate committees of Congress a report on the activities of the Administrator to carry out the microbicide agenda and on any other activities carried out by the Administrator related to microbicide research and development.

''(B) CONTENTS OF REPORT.—Each report submitted under subparagraph (A) shall include—

''(i) a description of activities with respect to microbicides conducted or supported by the Administrator;

''(ii) a summary and analysis of the expenditures made by the Administrator during the preceding year for activities with respect to microbicide-specific research and development, including the number of employees of the Agency who are involved in such activities;

''(iii) a description and evaluation of the progress made during the preceding year toward the development of effective and acceptable microbicides;

''(iv) a review of scientific and programmatic obstacles to expediting the commercial availability of microbicide products; and

''(v) a description of the activities carried out to increase the availability of microbicides approved to prevent the transmission of HIV or other sexually transmitted diseases.

''(C) CONSULTATION.—The Administrator shall consult with the Director of the Office of AIDS Research of the National Institutes of Health in preparing a report required by subparagraph (A).

''(D) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this paragraph, the term 'appropriate committees of Congress' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out this subsection.''.

By Mr. AKAKA:

S. 552. A bill to make technical corrections to the Veterans Benefits Improvement Act of 2004; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, today I introduce a bill that would provide a technical correction to the Veterans Benefits Improvements Act of 2004.

Last session, the law that allowed severely disabled members of the Armed Forces to receive specially adapted housing grants from the Department of Veterans Affairs (VA), while still on active duty, was inadvertently repealed. This was an oversight that occurred when the law was changed that authorized the Secretary of Veterans Affairs to provide specially adapted housing for veterans whose disability is the result of the loss, or loss of use, of both upper arms above the elbow.

Currently, only veterans are statutorily eligible for adapted housing grants. Congress originally intended eligibility for both disabled veterans and servicemembers, as was the case before the change in law last Session.

The correcting language in my bill would again provide the adapted housing benefit to disabled servicemembers in need of accommodations as they return to their homes. The adapted housing benefit is essential for providing an adequate standard of living for our disabled servicemembers. The benefit provides necessary modifications to servicemembers' homes to accommodate their disabilities.

I ask that we continue to make every effort to ensure that those servicemembers who have sacrificed to defend Freedom receive the benefits that they deserve. We owe it to these great men and women to pass this legislation.

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

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

S. 552

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

SECTION 1. TECHNICAL CORRECTIONS TO VETERANS BENEFITS IMPROVEMENT ACT OF 2004.

Section 2101 of title 38, United States Code, as amended by section 401 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454), is further amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) a new subsection (c) consisting of the text of subsection (c) of such section 2101 as in effect immediately before the enactment of such Act, modified—

(A) by inserting after ''(c)'' the following: ''ASSISTANCE TO MEMBERS OF THE ARMED FORCES.—'';

(B) in paragraph (1)—

(i) in the first sentence, by striking ''paragraph (1), (2), or (3)'' and inserting ''subparagraph (A), (B), (C), or (D) of paragraph (2)''; and

(ii) in the second sentence, by striking ''the second sentence'' and inserting ''paragraph (3)''; and

(C) in paragraph (2)—

(i) in the first sentence, by striking ''paragraph (1)'' and inserting ''paragraph (2)''; and

(ii) in the second sentence, by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(3) in subsection (a)(3), by striking ''subsection (c)'' in the matter preceding subparagraph (A) and inserting ''subsection (d)''.

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect immediately after the enactment of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454).

By Mrs. FEINSTEIN (for herself and Mr. ALLEN):

S. 553. A bill to amend title 23, United States Code, to provide for HOV-lane exemptions for low-emission and hybrid vehicles; to the Committee on Environment and Public Works.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce a bill with Senator ALLEN that would allow hybrids to access High Occupancy Vehicle (HOV) lanes.

California and other States, such as Arizona, Colorado, and Georgia, do not want to risk losing their Federal highway dollars by acting without a waiver from the Department of Transportation to implement laws permitting hybrid vehicles to use HOV lanes.

Virginia has decided to take that risk because the benefit of having more fuel efficient cars on the roads is greater.

This bill would allow the Department of Transportation to grant such a waiver to States.

The purpose of this bill is to encourage Americans to buy and drive hybrids, which provide an innovative solution to help reduce our thirst for gasoline.

Allowing hybrids into HOV lanes is a low-cost and quick incentive to promote the use of hybrids.

Hybrid vehicles are more fuel efficient than cars powered by internal combustion engines and they emit fewer greenhouse gases that lead to global warming.

Burning less gas can also help us to gain independence from foreign sources of energy.

The cost of hybrid technology will decrease by bringing more hybrids into the market.

And, people can make smarter, more fuel efficient, less polluting choices while getting to and from work faster.

Several States, including my State of California, have acted on their own to permit hybrid vehicles to use HOV lanes.

Current Federal law, however, only grants States the flexibility to allow electric or natural gas powered vehicles to drive in the HOV lanes with a single passenger.

Right now, there are approximately 20,000 high-mileage hybrid car owners in California waiting to take advantage of a State law that went into effect on January 1, 2005. This State law, sponsored by assemblywoman Fran Pavley, allows hybrid vehicles that get 45 miles-per-gallon or better to use diamond or HOV lanes until 2008.

As California has 40 percent of the Nation's carpool lanes, high-mileage hybrid owners stand to gain a significant benefit for driving these cars.

Some critics have expressed concerns that HOV lanes will get overloaeded, but each State can stop the program if congestion becomes a problem.

Hybrids only account for a fraction of the cars sold today—43,435 hybrids out of a total of 16.7 million vehicles were sold in 2003!

If States want to act to encourage their citizens to drive more fuel efficient, less polluting vehicles, we need to give them the tools to do so.

It is my hope that Congress will pass this bill quickly so that hybrid drivers in California, Georgia, Colorado and elsewhere can take advantage of the HOV lanes.

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

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

S. 553

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

SECTION 1. HOV-LANE EXEMPTION FOR LOW-EMISSION AND HYBRID VEHICLES

Section 102(a)(2) of title 23, United States Code, is amended—

(1) by striking the first sentence and inserting the following:

''(A) IN GENERAL.—Notwithstanding paragraph (1), a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicle is—

''(i)(I) certified as meeting the inherently low-emission vehicle evaporative emission standard under part 88 of title 40, Code of Federal Regulations (or a successor regulation) (including a vehicle produced before or during the 2004 model year that meets that standard); and

''(II) labeled in accordance with section 88.312–93(c) of title 40, Code of Federal Regulations (or a successor regulation); or

''(ii) a motor vehicle that—

''(I) draws propulsion energy from onboard sources of stored energy produced or stored by—

''(aa) an internal combustion or heat engine using combustible fuel; and

''(bb) a rechargeable energy storage system that provides at least 5 percent of the maximum available power; and

''(II) meets such other requirements or criteria as may be specified by the State.''; and

(2) in the second sentence, by striking ''Such permission'' and inserting the following:

''(B) REVOCATION.—The permission under subparagraph (A)''.

By Mr. DEWINE (for himself, Mr. KOHL, Mr. LEAHY, Mr. GRASSLEY, Mr. FEINGOLD, Ms. SNOWE, Mr. SCHUMER, Mr. DURBIN, Mr. LEVIN, Mrs. BOXER, Mr. WYDEN, Mr. CORZINE, and Mr. DAYTON):

S. 555. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with my colleagues—Senators KOHL, LEAHY, GRASSLEY, FEINGOLD, SNOWE, SCHUMER, DURBIN, LEVIN, BOXER, WYDEN, CORZINE, and DAYTON—to introduce the No Oil Producing and Exporting Cartels Act of 2005 (NOPEC). This legislation would give the Department of Justice and Federal Trade Commission legal authority to bring an antitrust case against the Organization of Petroleum Exporting Countries (OPEC).

Every consumer in America knows that gasoline prices have reached record highs recently. Likewise, the price of home heating oil has dramatically increased. These price increases have been acutely painful to people in my home State of Ohio.

Moreover, the rise in jet fuel prices is crippling our already weak airline industry. One of the main reasons that many U.S. airlines have not been able to make a profit has been due to skyrocketing jet fuel costs. For example, in the fourth quarter of 2004, Continental Airlines' jet fuel costs were $453 million, which was a 48 percent increase compared to last year, and Delta's jet fuel costs were $385 million, which was 76 percent increase compared to last year. No wonder so many U.S. airlines are teetering on the edge of bankruptcy or are already in bankruptcy.

What is the cause of these high gas and fuel prices? There are a number of factors at play, but there is clear agreement among industry experts about the primary cause of high gas and fuel prices—and that is the increase in imported crude oil prices. Who sets crude oil prices? OPEC does. The unacceptably high price of imported crude oil is a direct result of price fixing by the OPEC nations to keep the price of oil unnaturally high.

OPEC's hunger for ill-gotten gains is astounding. It seems its appetite can never be satisfied. For example, despite the fact that oil prices recently hit the historic high of $55 a barrel, OPEC members met in December 2004 and decided to cut the output of oil by another 1 million barrels. When demand is high and supplies are cut, that means prices will increase. Nonetheless, OPEC cut production. This is an outrage.

OPEC is probably the most notorious example of an illegal cartel in the world today. It is an affront to the principle that markets should be free. Nation after nation has adopted antitrust laws that make it illegal to fix prices. In 1998, the Organization for Economic Cooperation and Development, then composed of 29 member nations, issued a formal recommendation denouncing price fixing. OPEC's continued actions, in ongoing defiance of American and international antitrust norms, should not be tolerated.

Until now, however, OPEC has effectively received a ''free pass'' from prosecution under U.S. antitrust laws. For over two decades, enforcement has been constrained by two related court opinions. In 1979, a Federal district court found that OPEC's price-setting decisions were ''governmental'' acts. As a result, they were given sovereign status and protected by the Foreign Sovereign Immunities Act. Subsequently, in 1981, a Federal court of appeals declined to consider the appeal of that antitrust case based on the so-called ''act of state'' doctrine, which holds that a court will not consider a case regarding the legality of the acts of a foreign nation.

Our bill would effectively reverse these decisions. It makes it clear that OPEC's activities are not protected by sovereign immunity and that the Federal courts should not decline to hear a case against OPEC based on the ''act of state'' doctrine. As a result, under NOPEC, the Department of Justice and the Federal Trade Commission could bring an antitrust enforcement action against OPEC's member nations. This bill would force OPEC to begin pricing in a competitive, free-market manner or face the possibility of civil or criminal antitrust prosecution.

Senator KOHL and I have introduced this bill three times before—in 2000, 2001, and 2004. We intend to keep fighting for American consumers and businesses so that they will not be fleeced by OPEC in the future.

NOPEC says to OPEC: When you want to do business with America, you must abide by our antitrust laws and the rules of the free market. And when OPEC, one day, abides by the rules of the free market, we will all see lower oil and gas prices.

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

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

S. 555

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 ''No Oil Producing and Exporting Cartels Act of 2005'' or ''NOPEC''.

SEC. 2. SHERMAN ACT.

The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

''SEC. 7A. OIL PRODUCING CARTELS.

''(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

''(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

''(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

''(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

''(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

''(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

''(d) ENFORCEMENT.—The Attorney General of the United States and the Federal Trade Commission may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.''.

SEC. 3. SOVEREIGN IMMUNITY.

Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking ''or'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(8) in which the action is brought under section 7A of the Sherman Act.''.

Mr. KOHL. Mr. President, I rise today to introduce, with Senator DEWINE and 11 co-sponsors, of the No Oil Producing and Exporting Cartels Act of 2005 (''NOPEC''). It is time for the U.S. government to fight back on the price of oil and hold OPEC accountable when it acts illegally. This bill will hold OPEC member nations to account under U.S. antitrust law when they agree to limit supply or fix price in violation of the most basic principles of free competition.

Our bill will authorize the Attorney General and Federal Trade Commission to file suit against nations or other entities that participate in a conspiracy to limit the supply, or fix the price, of oil. In addition, it will expressly specify that the doctrines of sovereign immunity and act of state do not exempt nations that participate in oil cartels from basic antitrust law. Senator DEWINE and I have introduced this bill in each of the last three Congresses. This legislation was the subject of an extensive hearing at the Antitrust Subcommittee last year, and subsequently passed the Judiciary Committee without dissent. It is now time, in this new Congress, to finally pass this legislation into law and give our nation a long needed tool to counteract this pernicious and anti-consumer conspiracy.

Throughout the last year, consumers all across the Nation have watched gas prices rise to previously unimagined levels. As crude oil prices exceeded $40, then $50 and then $55 per barrel, retail prices of gasoline over $2.00 per gallon became commonplace. While prices temporarily receded for short periods, the general trend was significantly upwards, and rising even today. We now hear predictions that the price of crude oil may soon break the $60 barrier, and oil industry analysts even say $80 per barrel is not unthinkable. And one fact has remained consistent—any move downwards in price would end as soon as OPEC decided to cut production. The price of crude oil danced to the tune set by OPEC members. Such blatantly anti-competitive conduct by the oil cartel violates the most basic principles of fair competition and free markets and should not be tolerated.

Real people suffer real consequences every day in our nation because of OPEC's actions. Rising gas prices are a silent tax that takes hard-earned money away from Americans every time they visit the gas pump. Higher oil prices drive up the cost of transportation, harming thousands of companies throughout the economy from trucking to aviation. And those costs are passed on to consumers in the form of higher prices for manufactured goods. Higher oil prices mean higher heating oil and electricity costs. Anyone who has gone through a Midwest winter can tell you about the tremendous personal costs associated with higher home heating bills.

We have all heard many explanations offered for rising energy prices. Some say that the oil companies are gouging consumers. Some blame disruptions in supply. Others point to the EPA requirement mandating use of a new and more expensive type of ''reformulated'' gas in the Midwest or other ''boutique'' fuels around the country. Some even claim that refiners and distributors have illegally fixed prices. On this issue, Senator DEWINE and I have repeatedly asked the Federal Trade Commission to investigate these allegations. As a result of our requests, the FTC has put a task force in place to find out if those allegations were true. While we continue to urge the FTC to be vigilant, the FTC has to date found no evidence of illegal domestic price fixing as a cause of higher gas prices. And we conducted our own inquiry in the Antitrust Subcommittee last year which found no basis to challenge the FTC's conclusions.

But one cause of these escalating prices is indisputable: the price fixing conspiracy of the OPEC nations. For years, this conspiracy has unfairly driven up the cost of imported crude oil to satisfy the greed of the oil exporters. We have long decried OPEC, but, sadly, no one in government has yet tried to take any action. Our bill will, for the first time, establish clearly and plainly that when a group of competing oil producers like the OPEC nations act together to restrict supply or set prices, they are violating U.S. law. The bill will not authorize private lawsuits, but it will authorize the Attorney General or FTC to file suit under the antitrust laws for redress. Our bill will also make plain that the nations of OPEC cannot hide behind the doctrines of ''Sovereign Immunity'' or ''Act of State'' to escape the reach of American justice. In so doing, our bill will overrule one twenty-year old lower court decision which incorrectly failed to recognize that the actions of OPEC member nations was commercial activity exempt from the protections of sovereign immunity.

The most fundamental principle of a free market is that competitors cannot be permitted to conspire to limit supply or fix price. There can be no free market without this foundation. And we should not permit any nation to flout this fundamental principle.

Some critics of this legislation have argued that suing OPEC will not work or that threatening suit will hurt more than help. I disagree. Our NOPEC legislation will, for the first time, enable our antitrust authorities to take legal action to combat the illegitimate price-fixing conspiracy of the oil cartel. It will, at a minimum, have a real deterrent effect on nations that seek to join forces to fix oil prices to the detriment of consumers. This legislation will be the first real weapon the U.S. government has ever had to deter OPEC from its seemingly endless cycle of price increases. There is nothing remarkable about applying U.S. antitrust law overseas. Our government has not hesitated to do so when faced with clear evidence of anti-competitive conduct that harms American consumers. A few years ago, for example, the Justice Department secured record fines totaling $725 million against German and Swiss companies engaged in a price fixing conspiracy to raise and fix the price of vitamins sold in the United States and elsewhere. Their behavior harmed consumers by raising the prices consumers paid for vitamins every day and plainly needed to be addressed. As this and other cases show, the mere fact that the conspirators are foreign nations is no basis to shield them from violating these most basic standards of fair economic behavior.

Even under current law, there is no doubt that the actions of the international oil cartel would be in gross violation of antitrust law if engaged in by private companies. If OPEC were a group of international private companies rather than foreign governments, their actions would be nothing more than an illegal price fixing scheme. But OPEC members have used the shield of ''sovereign immunity'' to escape accountability for their price-fixing. The Foreign Sovereign Immunities Act, though, already recognizes that the ''commercial'' activity of nations is not protected by sovereign immunity. And it is hard to imagine an activity that is more obviously commercial than selling oil for profit, as the OPEC nations do. Our legislation will establish that the sovereign immunity doctrine will not divest a U.S. court from jurisdiction to hear a lawsuit alleging that members of the oil cartel are violating antitrust law.

The suffering of consumers across the Nation in the last year has made me more certain than ever that this legislation is necessary. Between OPEC's repeated decisions to cut oil production and the FTC's conclusion for the last several years that there is no illegal conduct by domestic companies responsible for rising gas prices, I am convinced that we need to take action, and take action now, before the damage spreads too far.

I urge my colleagues to support our legislation so that our Nation will finally have an effective means to combat this price-fixing conspiracy of oil-rich nations.

By Mr. MCCAIN:

S. 556. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by my colleague in the House of Representatives, Congressman RICK RENZI, in introducing legislation to authorize a special resources and land management study for the Walnut Canyon National Monument in Arizona. The study is intended to evaluate a range of management options for public lands adjacent to the monument to ensure adequate protection of the canyon's cultural and natural resources.

For several years, local communities adjacent to the Walnut Canyon National Monument have debated whether the land surrounding the monument would be best protected from future development under management of the U.S. Forest Service or the National Park Service. The Coconino County Board and the Flagstaff City Council have passed resolutions concluding that the preferred method to determine what is best for the land surrounding Walnut Canyon National Monument is by having a Federal study conducted. The recommendations from such a study would help to resolve the question of future management and whether expanding the monument's boundaries could compliment current public and multiple-use needs.

The legislation also would direct the Secretary of the Interior and the Secretary of Agriculture to provide recommendations for management options for maintenance of the public uses and protection of resources of the study area.

Mr. President, this legislation would provide a mechanism for determining the management options for one of Arizona's high uses scenic areas and protect the natural and cultural resources of this incredibly beautiful monument. I urge my colleagues to support its passage.

By Mr. REID (for himself, Mr. BIDEN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mrs. BOXER, Mr. JOHNSON, Mr. SALAZAR, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JEFFORDS, Mr. KENNEDY, Mrs. LINCOLN, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. DURBIN):

S. 558. A bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt; to the Committee on Armed Services.

Mr. President, I rise today to again introduce a bill along with my colleagues Mr. BIDEN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mrs. BOXER, Mr. JOHNSON, Mr. SALAZAR, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JEFFORDS, Mr. KENNEDY, Mrs. LINCOLN, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. DURBIN.

Nothing is more important than keeping America safe. The key to our security is a professional, well-trained military. And in order to attract the dedicated soldiers we need, we must honor our commitment to America's veterans. Most everyone in the Senate knows about the ban on concurrent receipt . . . and our veterans certainly know about the hardship it causes.

This is the outdated and unfair policy that prevents disabled veterans from collecting both their military retirement pay and disability compensation at the same time. Under current law, a retired disabled veteran must deduct from his retirement pay, dollar for dollar, the amount of any disability compensation he receives.

In many cases, this totally wipes out the veteran's retirement pay. The end result is that the disabled military retiree loses all of the value of his 20 or more years of service to our Nation. We don't subject any other Federal retiree to this kind of offset, only our disabled military retirees. So this policy amounts to a special tax on our disabled veterans . . . men and women who have already sacrificed so much for our Nation.

When this situation was first brought to my attention a few years ago by a veteran from Nevada, I could hardly believe it. It seemed too outrageous to be true. And to this day, I can't understand why it has taken so long to correct the problem. Because to me, it just goes without saying that we should treat our disabled veteran with honor . . . with dignity . . . and with respect.

The members of this Senate share my feelings. For the past years, the Senate has passed measures to end the ban on concurrent receipt. I want to especially thank Senators LEVIN and WARNER for their support of this issue, year after year. Thanks to their strong leadership we have made some progress each year.

In 2003 we passed a measure to allow concurrent receipt for those who are 100 percent disabled. Last year we made that change immediate, instead of being phased in over 10 years. This will benefit as many as 50,000 severely disabled veterans. But there are still hundreds of thousands of disabled veterans who need our help.

We would not dream of leaving a soldier behind on the battlefield. And we should not walk away from our disabled veterans now, when they need our help. Frankly, I can't understand why the administration is even debating whether this policy should be changed for veterans whose disabilities make them unemployable. The fact is, many veterans with a disability rated at less than 100 percent cannot get or hold a job because of their disabilities.

And a 10-year phase-in simply isn't fair for these veterans, because many of them will never live to see the benefits. They deserve immediate help. We have to take care of these veterans—now. If the administration doesn't want to do it, then Congress will be forced to legislate the necessary changes. Taking care of veterans is the right thing to do because we must never forget the sacrifices they made to protect our freedom.

Taking care of our veterans is also a key to winning the war on terror. In our all-volunteer military, it is critical to attract and retain professional, dedicated soldiers.

These people serve because they love America. They don't expect to get rich in the military but they do expect that we will honor our commitments to provide health care and other benefits for them and their families.

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

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

S. 558

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 ''Retired Pay Restoration Act of 2005''.

SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) For more than 100 years before 1999, all disabled military retirees were required to fund their own veterans' disability compensation by forfeiting one dollar of earned retired pay for each dollar received in veterans' disability compensation.

(2) Since 1999, Congress has enacted legislation every year to progressively expand eligibility criteria for relief of the retired pay disability offset and further reduce the burden of financial sacrifice on disabled military retirees.

(3) Absent adequate funding to eliminate the sacrifice for all disabled retirees, Congress has given initial priority to easing financial inequities for the most severely disabled and for combat-disabled retirees.

(4) In the interest of maximizing eligibility within cost constraints, Congress effectively has authorized full concurrent receipt for all

qualifying retirees with 100-percent disability ratings and all with combat-related disability ratings, while phasing out the disability offset to retired pay over 10 years for retired members with noncombat-related, service-connected disability ratings of 50 percent to 90 percent.

(5) In pursuing these good-faith efforts, Congress acknowledges the regrettable necessity of creating new thresholds of eligibility that understandably are disappointing to disabled retirees who fall short of meeting those new thresholds.

(6) Congress is not content with the status quo.

(b) SENSE OF CONGRESS.—It is the sense of Congress that military retired pay earned by service and sacrifice in defending the Nation should not be reduced because a military retiree is also eligible for veterans' disability compensation awarded for service-connected disability.

SEC. 3. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR CERTAIN ADDITIONAL MILITARY RETIREES WITH COMPENSABLE SERVICE-CONNECTED DISABILITIES.

(a) EXTENSION OF CONCURRENT RECEIPT AUTHORITY TO RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—Section 1414 of title 10, United States Code, is amended by striking paragraph (2) of subsection (a).

(b) REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.—Such section is further amended—

(1) in subsection (a), by striking the final sentence of paragraph (1);

(2) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) in subsection (d) (as so redesignated), by striking subparagraph (4).

(c) CLERICAL AMENDMENTS.—

(1) The heading for section 1414 of such title is amended to read as follows:

"§ 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation".

(2) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2006, and shall apply to payments for months beginning on or after that date.

SEC. 4. COORDINATION OF SERVICE ELIGIBILITY FOR COMBAT-RELATED SPECIAL COMPENSATION AND CONCURRENT RECEIPT.

(a) ELIGIBILITY FOR TERA RETIREES.—Subsection (c) of section 1413a of title 10, United States Code, is amended by striking "entitled to retired pay who—" and all that follows and inserting "who—

"(1) is entitled to retired pay, other than a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

"(2) has a combat-related disability".

(b) AMENDMENTS TO STANDARDIZE SIMILAR PROVISIONS.—

(1) CLERICAL AMENDMENT.—The heading for paragraph (3) of section 1413a(b) of such title is amended by striking "RULES" and inserting "RULE".

(2) SPECIFICATION OF QUALIFIED RETIREES FOR CONCURRENT RECEIPT PURPOSES.—Subsection (a) of section 1414 of such title, as amended by section 2(a), is amended—

(A) by striking "a member or" and all that follows through "retiree')" and inserting "an individual who is a qualified retiree for any month";

(B) by inserting "retired pay and veterans' disability compensation" after "both"; and

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

"(2) QUALIFIED RETIREES.—For purposes of this section, a qualified retiree, with respect to any month, is a member or former member of the uniformed services who—

"(A) is entitled to retired pay, other than in the case of a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

"(B) is also entitled for that month to veterans' disability compensation.".

(3) STANDARDIZATION WITH CRSC RULE FOR CHAPTER 61 RETIREES.—Subsection (b) of section 1414 of such title is amended—

(A) by striking "SPECIAL RULES" in the subsection heading and all that follows through "is subject to" in paragraph (1) and inserting "SPECIAL RULE FOR CHAPTER 61 DISABILITY RETIREES.—In the case of a qualified retiree who is retired under chapter 61 of this title, the retired pay of the member is subject to"; and

(B) by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2006, and shall apply to payments for months beginning on or after that date.

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 559. A bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, as we stand here today women and children are suffering the ravages and privations of war and natural disasters. They are suffering food shortages and lack the most basic necessities in so many nations around the world. Five million people have been affected by the tsunami. Of that 5 million, 1.5 million are children, many alone and parentless, vulnerable to human trafficking, forced recruitment into military service or worse.

We can help. We can do our share by making sure U.S. programs do their share.

Today, I am introducing—along with Senator LUGAR—the Protection of Vulnerable Populations During Humanitarian Emergencies Act of 2005, to make vulnerable people, especially women and children, an absolute priority of our foreign assistance programs. As a Nation, as a people, we probably should do more, but we certainly can do no less than to ensure the international community has a system in place to prevent the exploitation of so many lost, vulnerable, suffering women and children who are struggling to survive the most God-awful conditions imaginable.

Over the past fifty years the nature of war has changed dramatically. In today's world, 90 percent of the casualties in any war are civilians, most of them women and children. Since 1990, more than 2 million children have been killed, and 6 million maimed or injured as a result of a war somewhere in this world.

It is extraordinary to think that, in what we believe is the most sophisticated, technologically advanced period in world history, rape has become a routine weapon of war used at will by bands of marauding military forces—some of them young boys—everywhere from Burma to Bosnia, and from Sierra Leone to Sudan.

Forced displacement of civilians, rather than being one of the unfortunate results of war is now a deliberate tactic of war.

Look at Darfur in the last 18 months.

Civilians have been targeted by Khartoum in one of the most horrific genocides we have seen in recent years. Homes have been bombed, and villages attacked. Government sponsored militia are destroying crops and have fouled the water supply. They're burning homes, leaving mothers no choice but to flee for their lives and their children's lives.

Civilians forced to flee during war find their way to camps, but instead of relative safety what do they find? They find more suffering. The camps become virtual prisons. Women and girls are beaten and raped if they venture outside the camps for firewood.

When I recently read a report by a United Nations investigatory team which states that a number of U.N. peacekeepers—U.N. peacekeepers, mind you—deployed to protect civilians from ethnic violence in the eastern Democratic Republic of Congo were sexually exploiting girls as young as 13 years old, it reinforced my belief that we cannot stand by any longer. Something must be done and this bill only begins to do it. Let me read you what that report said:

> Interviews with Congolese women and girls confirmed that sexual contact with peacekeepers occurred with regularity, usually in exchange for food or small sums of money . . ."
>
> . . . "Many of the contacts involved girls under the age of 18."

What's more horrifying to me: the investigators found that the abuse was going on while they were there, on the ground, conducting the investigation. These incidents as well as allegations of sexual exploitation by camp residents and humanitarian workers in refugee camps in West Africa and Nepal in 2002 are incredible, real life examples of the sad fact that women and children remain vulnerable even in the very places they flee for safety.

This bill seeks to do something about it.

It enhances the U.S. government's ability to see that women and children are protected before, during, and after a complex humanitarian emergency. It directs the Secretary of State to designate a special coordinator for protection issues who will be charged with

making sure our embassies and consular posts are made aware of the warning signs that an emergency which may put the lives and safety of women and children at risk is imminent.

It directs the coordinator to compile a watch list of such countries and regions so that the Agency for International Development can plan to meet potential need. It prohibits U.S. funding for relief agencies that do not sign a code of conduct that outlaws improper exploitative relationships between aid workers and recipients.

It expresses the Sense of Congress that the U.N. Department of Peacekeeping Operations should improve its mechanism to prevent and respond to allegations of sexual exploitation and abuse by peacekeepers.

It establishes a fellowship with the AID for someone with expertise and skills in preventing and responding to violence and exploitation of those made vulnerable by war.

It calls upon the United States Executive Director of the International Bank of Reconstruction and Development to try to make sure World Bank demobilization, disarmament, and reintegration programs extend the same benefits that ex-combatants receive to women and children who were associated with them.

As it now stands, women and children who were used as cooks and porters and so called ''wives,'' a euphemism for women who were kidnaped to serve as sexual slaves, may well not be given a single thing through these programs—nothing with which to rebuild their lives despite the fact that they were not there by choice. Yet the very people who forced them into such conditions receive assistance with no qualms or reservations.

Finally, it amends the Foreign Assistance Act to authorize programs and activities specifically aimed at making people—especially women and children—who are affected by humanitarian emergencies safer from further exploitation and abuse.

This bill is by no means a panacea, but it is a decent beginning. It is the least we can do to mitigate the extraordinary violence against women and children in times of war and natural disasters the results of which we see all too often in a world that seems to have gone mad.

To do nothing in the face of it would be sinful, inhumane, and wrong.

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

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

S. 559

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 ''Protection of Vulnerable Populations During Humanitarian Emergencies Act of 2005''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term ''Agency'' means the United States Agency for International Development.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) CHILDREN.—The term ''children'' means persons under the age of 18 years.

(4) COORDINATOR.—The term ''coordinator'' means the individual designated by the Secretary under section 102(a).

(5) DEPARTMENT.—The term ''Department'' means the Department of State.

(6) EXPLOITATION OF CHILDREN.—The term ''exploitation of children'' includes—

(A) adult sexual activity with children;

(B) kidnapping or forcibly separating children from their families;

(C) subjecting children to forced child labor;

(D) forcing children to commit or witness acts of violence, including compulsory recruitment into armed forces or as combatants; and

(E) withholding or obstructing access of children to food, shelter, medicine, and basic human services.

(7) HIV.—The term ''HIV'' means the human immunodeficiency virus, the virus that causes the acquired immune deficiency syndrome (AIDS).

(8) HUMANITARIAN EMERGENCY.—The term ''humanitarian emergency'' means a situation in which, due to a natural or manmade disaster, civilians, including refugees and internally displaced persons, require basic humanitarian assistance.

(9) INTER-AGENCY STANDING COMMITTEE.—The term ''Inter-Agency Standing Committee'' means the Inter-Agency Standing Committee established in response to United Nations General Assembly Resolution 46/182 of December 19, 1991.

(10) PROTECTION.—The term ''protection'' means all appropriate measures to provide the physical and psychological security of, provide equal access to basic services for, and safeguard the legal and human rights of, individuals.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of State.

(12) SEX TRAFFICKING.—The term ''sex trafficking'' has the meaning given the term in section 103 of Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(13) SEXUAL EXPLOITATION AND ABUSE.—The term ''sexual exploitation and abuse'' means causing harm to a person through—

(A) rape;

(B) sexual assault or torture;

(C) sex trafficking and trafficking in persons;

(D) demands for sex in exchange for employment, goods, services, or protection; and

(E) other forms of sexual violence.

(14) TRAFFICKING IN PERSONS.—The term ''trafficking in persons'' has the meaning given the term ''severe forms of trafficking in persons'' in section 103 of Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(15) VULNERABLE POPULATIONS.—The term ''vulnerable populations'' means those people, such as women, children, the disabled, and the elderly, who by virtue of their status are at a disadvantage in obtaining or accessing goods and services.

SEC. 4. FINDINGS.

Congress makes the following findings:

(1) The nature of war has changed dramatically in recent decades, putting civilians, especially women and children, at greater risk of death, disease, displacement, and exploitation.

(2) In the last decade alone, more than 2,000,000 children have been killed during wars, while more than 4,000,000 have survived physical mutilation, and more than 1,000,000 have been orphaned or separated from their families as a result of war.

(3) The use of rape, particularly against women and girls, is an increasingly common tactic in modern war.

(4) Civilians, particularly women and children, account for the vast majority of those adversely affected by humanitarian emergencies, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements for murder, abduction, forced military conscription, involuntary servitude, displacement, sexual abuse and slavery, mutilation, and loss of freedom.

(5) Large-scale natural disasters, such as the tsunami that struck South East Asia, South Asia, and East Africa on December 26, 2004, and claimed over 200,000 lives, are particularly threatening to children, who are often orphaned or separated from their families.

(6) Traditionally, the response to such humanitarian emergencies has focused on providing food, medical care, and shelter needs, and has placed less emphasis on the safety and security of those affected by a humanitarian emergency.

(7) Refugee women and girls face particular threats because of power inequities, including being forced to exchange sex for food and humanitarian supplies, and being at increased risk of rape and sexual exploitation and abuse due to poor security in refugee camps.

(8) In some circumstances, humanitarian agencies have failed to make individuals affected by a humanitarian emergency, especially women and children, aware of their rights to protection and assistance, to give them access to effective channels of redress, and to make humanitarian workers aware of their duty to respect these rights and provide adequate assistance.

(9) Refugee and displaced women face heightened risks of developing complications

during pregnancy, suffering a miscarriage, dying, being injured during childbirth, becoming infected with HIV or another sexually transmitted infection, or suffering from posttraumatic stress disorder.

(10) Despite the heightened risks for women during a humanitarian emergency, women's needs for specialized health services have often been overlooked by donors and relief organizations, which are focused on providing food, water, and shelter.

(11) There is a substantial need for the protection of civilians, especially women and children, to be given a high priority during all humanitarian emergencies.

TITLE I—PROGRAM AND POLICY COORDINATION

SEC. 101. REQUIREMENT TO DEVELOP COMPREHENSIVE STRATEGY.

(a) IN GENERAL.—The Secretary shall, in consultation with the Administrator of the United States Agency for International Development, develop a comprehensive strategy for the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency. The strategy shall include—

(1) measures to address the specific protection needs of women and children;

(2) training for personnel to respond to the specific needs of such vulnerable populations; and

(3) measures taken to comply with section 301.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report setting forth the strategy described in subsection (a).

SEC. 102. DESIGNATION OF COORDINATOR.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall designate an individual within the Department or the Agency as the coordinator to be responsible for the oversight and coordination of efforts by the Department and the Agency to provide protection for vulnerable populations, especially women and children, affected by a humanitarian emergency.

(b) CONSULTATION REQUIREMENT.—The Secretary shall consult with the Administrator of the United States Agency for International Development in making a designation under subsection (a).

(c) NOTIFICATION.—Not later than 5 days after designating an official as a coordinator under subsection (a), the Secretary shall inform the appropriate congressional committees of such designation.

TITLE II—PREVENTION AND PREPAREDNESS

SEC. 201. REPORTING AND MONITORING SYSTEMS.

(a) DUTIES OF COORDINATOR.—The coordinator shall—

(1) develop and maintain a database of historical information about occurrences of sexual exploitation and abuse, and other exploitation, of children during a humanitarian emergency;

(2) establish a reporting and monitoring system for United States diplomatic missions to collect and submit to the coordinator information that indicates that vulnerable populations, especially women and children, are being targeted for or are at substantial risk of violence or exploitation in humanitarian emergencies;

(3) assist United States diplomatic missions in developing responses to situations where there is a substantial risk of sexual exploitation and abuse or exploitation of children that may occur during a humanitarian emergency; and

(4) develop mechanisms for the receipt and distribution of reports to and from the public and relevant nongovernmental and international organizations of evidence of sexual exploitation and abuse and exploitation of children during a humanitarian emergency.

(b) CONSULTATION.—In carrying out duties under paragraphs (1) and (2) of subsection (a), the Coordinator shall consult with inter-governmental organizations and nongovernmental organizations.

SEC. 202. PROTECTION TRAINING AND EXPERTISE.

(a) FELLOWSHIP PROGRAM.—The Administrator of the United States Agency for International Development is authorized to establish a fellowship program at the Agency to increase the expertise of the personnel of the Agency in developing programs and policies to carry out activities related to the protection of vulnerable populations, especially women and children, affected by a humanitarian emergency.

(b) TERM OF FELLOWSHIP.—An individual may participate in a fellowship under this section for a term of not more than 3 years.

(c) NUMBER OF FELLOWS.—The Administrator is authorized to employ up to 10 fellows at any one time under this program.

(d) QUALIFICATION.—An individual is qualified to participate in a fellowship under this section if such individual has the specific expertise required—

(1) to develop and implement policies and programs related to the protection of vulnerable populations, especially women and children; and

(2) to promote the exchange of knowledge and experience between the Agency and entities that assist the Agency in carrying out assistance programs.

TITLE III—PROTECTION OF REFUGEES AND INTERNALLY DISPLACED PERSONS

SEC. 301. CODES OF CONDUCT.

None of the funds made available by the Department or Agency to provide assistance under section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) or overseas assistance under section 2 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) may be provided to a primary grantee or contractor for the purpose of providing assistance to refugees or internally displaced persons unless such grantee or contractor has adopted a code of conduct that is consistent with the 6 core principles recommended by the Inter-Agency Standing Committee. To the extent practicable, a grantee or contractor that has adopted such a code of conduct shall ensure that subgrantees and subcontractors of such grantee or contractor have adopted, or agree to act in accordance with, such a code of conduct.

SEC. 302. HEALTH SERVICES FOR REFUGEES AND DISPLACED PERSONS.

(a) PROVISION OF HEALTH SERVICES TO VULNERABLE POPULATIONS AFFECTED BY HUMANITARIAN EMERGENCIES.—The coordinator shall seek to ensure that organizations funded by the Department and the Agency for the purpose of responding to a humanitarian emergency coordinate and implement activities needed to respond to the health needs of vulnerable populations, especially women and children, as soon as practicable and not later than 30 days after the onset of a humanitarian emergency.

(b) ACTIVITIES DEFINED.—The activities referred to in subsection (a) include activities to—

(1) prevent and manage the consequences of sexual violence;

(2) reduce transmission of HIV;

(3) provide obstetric care; and

(4) develop a plan to integrate women's health services into the primary health care services provided during a humanitarian emergency.

SEC. 303. ECONOMIC SELF-SUFFICIENCY OF VULNERABLE POPULATIONS AFFECTED BY A HUMANITARIAN EMERGENCY.

(a) AMENDMENTS TO MICROENTERPRISE ACT OF 2000.—Section 102 of the Microenterprise for Self-Reliance Act of 2000 (22 U.S.C. 2151f note) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (B), (C), and (D) and subparagraphs (C), (D), and (E), respectively; and

(B) by inserting after subparagraph (A) the following:

''(B) Women displaced by armed conflict are particularly at risk, lacking access to traditional livelihoods and means for generating income.''; and

(2) in paragraph (13)—

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

(B) by inserting after subparagraph (A) the following:

''(B) Particular efforts should be made to expand the availability of microcredit programs to internally displaced persons, who historically have not had access to such programs.''.

(b) AMENDMENT TO THE FOREIGN ASSISTANCE ACT.—Section 256(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2212(b)(3)) is amended by inserting after ''clients'' the following: '', including women microentrepeneurs,''.

SEC. 304. INTERNATIONAL MILITARY EDUCATION AND TRAINING.

Section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347) is amended—

(1) by striking ''or (iv)'' and inserting ''(iv)''; and

(2) by striking ''rights.'' and inserting ''rights, or (v) improve the protection of civilians, especially women and children, including those who are refugees or displaced persons.''.

SEC. 305. SENSE OF CONGRESS REGARDING ACTIONS OF UNITED NATIONS PEACEKEEPERS.

It is the sense of Congress that—

(1) the Secretary-General of the United Nations should strengthen the existing ability of the United Nations Department of Peacekeeping Operations to protect civilians, especially women and children, from sexual exploitation and abuse by personnel in peace operation missions by—

(A) directing the Department of Peacekeeping Operations to identify nongovernmental organizations and local community officials to receive and communicate to senior level mission officials credible reports from civilians of sexual exploitation and abuse;

(B) ensuring that there is a mechanism in place for all credible allegations of sexual exploitation and abuse to be brought to the attention of senior level mission officials in an expedited fashion;

(C) developing missions based rapid response teams to investigate allegations of sexual exploitation and abuse;

(D) improving informational programs for United Nations personnel on their responsibility not to engage in acts of sexual exploitation and abuse and the sanctions for such actions;

(E) identifying troop contributing countries that refuse to investigate allegations of sexual exploitation and abuse by nationals serving in peacekeeping missions;

(F) permanently excluding individuals found to have engaged in sexual abuse or exploitation, as well as troop contingent commanders and civilian managerial personnel complicit in such behavior, from participating in future United Nations peacekeeping missions; and

(G) demanding that troop contributing countries—

(i) thoroughly investigate cases in which their nationals have been alleged to have engaged in sexual abuse or exploitation which on United Nations peacekeeping missions; and

(ii) punish those found guilty of such misconduct;

(2) troop contributing states should ensure that their soldiers are properly trained on United Nations guidelines regarding proper conduct towards civilians, in particular those guidelines that address gender-based violence, before participating in United Nations peace operation missions;

(3) the United Nations should suspend payment of peacekeeping funds to countries when there is credible evidence of sexual exploitation and abuse by troops of such countries that are participating in peacekeeping operations, and the governments of such countries are not investigating or punishing such conduct; and

(4) the Secretary should consider a suspension of United States military assistance to countries that do not—

(A) investigate allegations of sexual exploitation and abuse by troops participating in United Nations peacekeeping operations; or

(B) hold perpetrators of such abuse and exploitation accountable.

TITLE IV—PROTECTION OF VULNERABLE POPULATIONS AFFECTED BY A HUMANITARIAN EMERGENCY

SEC. 401. ACTIONS TO SUPPORT PROTECTION.

(a) PROGRAMS OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT.—The United States Executive Director of the International Bank for Reconstruction and Development should take steps to ensure that disarmament, demobilization, and reintegration programs developed and funded by the International Bank for Reconstruction and Development provide benefits to former combatants that are comparable to the benefits provided by such programs to other individuals.

(b) REPORT REGARDING PROGRAMS TO ASSIST CIVILIAN POLICE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on all current programs being conducted by the Department or the Agency to assist foreign countries with the enforcement of the laws of such countries that are designed to protect women and children and improve accountability for sexual exploitation and abuse.

SEC. 402. PROTECTION ASSISTANCE.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 135. ASSISTANCE FOR THE PROTECTION OF VULNERABLE POPULATIONS DURING HUMANITARIAN EMERGENCIES.

''(a) AUTHORITY.—Notwithstanding any other provision of law, and subject to the limitations of subsection (b), the President is authorized to provide assistance for programs, projects, and activities to promote the security of, provide equal access to basic services for, and safeguard the legal and human rights of civilians, especially women and children, who are affected by a humanitarian emergency. Such assistance shall include programs—

''(1) to build the capacity of nongovernmental organizations to address the special protection needs of vulnerable populations, especially women and children, affected by a humanitarian emergency;

''(2) to support local and international nongovernmental initiatives to prevent, detect, and report exploitation of children and sexual exploitation and abuse, including through the provision of training humanitarian protection monitors for refugees and internally displaced persons;

''(3) to conduct protection and security assessments for refugees and internally displaced persons in camps or in communities for the purpose of improving the design and security of camps for refugees and internally displaced persons, with special emphasis on the security of women and children;

''(4) to provide, when practicable, education during a humanitarian emergency, including structured activities that create safe spaces for children, in particular girls;

''(5) to reintegrate and rehabilitate former combatants and survivors of a humanitarian emergency, including through education, psychosocial assistance and trauma counseling, family and community reinsertion, medical assistance, and strengthening community systems to support sustained reintegration;

''(6) to establish registries and clearinghouses to trace relatives and begin family reunification, with a specific focus on helping children find their families;

''(7) to provide interim care and placement for separated children and orphans, including monitoring and followup services;

''(8) to provide legal services for survivors of sexual exploitation, abuse, or torture, including the collection of evidence for war crimes tribunals and advocacy for legal reform; and

''(9) to provide to local law enforcement personnel working in areas affected by a humanitarian emergency training in human rights law, particularly as it relates to the protection of women and children.

''(b) AVAILABILITY OF ASSISTANCE.—Amounts made available to carry out this part and chapter 4 of part II may be made available to carry out this section.''.

Mr. LUGAR. Mr. President, I rise to comment on International Women's Day and to join Senator BIDEN in introducing the Protection of Vulnerable Populations During Humanitarian Emergencies Act of 2005.

Today is International Women's Day, a day on which we celebrate the progress of women and rededicate ourselves to overcoming the inequities facing women around the globe. In many places in the world, discrimination continues to deny women and girls full political and economic equality. The lives and health of women and girls continue to be endangered by violence that is directed at them simply because they are female. In recognition of these issues, I co-sponsored a Resolution with Senators BIDEN and CLINTON commemorating International Women's Day and reaffirming the Senate's commitment to improving the status of women worldwide.

In addition, I am co-sponsoring with Senator BIDEN the Protection of Vulnerable Populations During Humanitarian Emergencies Act of 2005, which the Committee on Foreign Relations supported as an amendment to our Foreign Affairs Authorization Act for fiscal years 2006 and 2007. During humanitarian emergencies, women and children become more vulnerable to a range of abuses including sexual exploitation, trafficking and gender-based violence. Our bill seeks to ensure that U.S. foreign assistance programs are a force for protecting women, children, and other vulnerable populations in the wake of military conflict and natural disasters.

The recent tsunami tragedy in the Indian Ocean region has highlighted this important issue. Tens of thousands of children have lost family members and friends and are coping with unspeakable trauma. Nearly 35,000 children have been orphaned, and many more have been separated from their families. These children face the imminent threats of hunger, disease, and diarrhea. Beyond these dangers, children are vulnerable to being trafficked for sexual exploitation, forced labor, or conscription. Without their families, the children orphaned by the tsunami lack protection from predators who would profit from their tragedy.

During many of the humanitarian crises that we have witnessed over the last decade, including Rwanda, Bosnia, and Sudan, we have learned that women and children are uniquely vulnerable to sexual violence and exploitation. Over the course of the past year, the world has heard accounts of rape at the camps in Darfur in Western Sudan. Our bill aims to improve the ability of the United States to protect women and children, like those in the tsunami-affected region and in Darfur, from the additional dangers they face during a humanitarian emergency. Our bill calls for a coordinator for protection issues and a strategy to improve our ability to protect and respond to the needs of women and children in such crises. Our bill authorizes funding for the specific health care needs of women during an emergency, the establishment of registries and clearinghouses to trace relatives and help children find their families, and legal services for survivors of sexual exploitation and abuse. In addition, the bill requires that any organization receiving U.S. funds to assist in a humanitarian emergency have in place a code of conduct forbidding its employees from sexually abusing the victims of the crisis. Finally, our bill urges the United Nations to strengthen its policies concerning sexual abuse and exploitation by UN personnel involved in UN peacekeeping operations. I am hopeful that Senators will join me in backing this legislation.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 560. A bill to enhance disclosure of automobile safety information; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 561. A bill to improve child safety in motor vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 562. A bill to amend title 23, United States Code, to improve the highway safety improvement program and provide for a proportional obligation of amounts made available for the

highway safety improvement program; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 563. A bill to improve driver licensing and education, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 564. A bill to improve traffic safety by discouraging the use of traffic signal preemption transmitters; to the Committee on the Judiciary.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 565. A bill to direct the National Highway Traffic Safety Administration to establish and carry out traffic safety law enforcement and compliance campaigns, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DEWINE. Mr. President, the number one killer of those between the ages of 4 and 34 in this country today is auto fatalities. If you look at those between the ages of 16 and 25, the figures are even more exaggerated. We all know that in this country over 42,000 Americans lose their lives every year in auto accidents. That figure stays fairly constant. The last year we have figures for is 2003, and in that year, 42,643 of our fellow citizens lost their lives.

In fact, in the next 12 minutes, to be precise, at least one person will be killed in an automobile accident in this country, while nearly six people will be injured in just the next 60 seconds.

This is a tragedy that we as a society are much too willing to tolerate. If a foreign enemy were doing this to us, we would not tolerate it. We would be up in arms. Someone said it is the equivalent of a 747 airplane going down every two days in this country. If that were happening, of course, it would be on CNN; we would be demanding an explanation. Yet, these auto fatalities that occur, hour-by-hour, day-by-day, just go on, and for some reason, we have become immune to it, hardened to it. They just continue.

I come to the Floor today to discuss five bills—five bills that my staff and I have been working on for a few years now—five bills that I will be introducing, but hope will be incorporated in the transportation bill we will be considering in the next several weeks. These bills are commonsense, practical ways to save lives. Each bill is built on solid evidence of what will, in fact, make a difference. These are bills that will, in fact, save lives.

Last year, the Senate passed each of these bills as a part of the SAFE-TEA transportation bill. I want to thank Senators INHOFE, JEFFORDS, BOND, REID, and MCCAIN for their assistance in making that happen. Our former colleague Senator HOLLINGS was also instrumental in clearing these bills. So, what I'm talking about today is a set of bills that has already enjoyed the support of the Senate, and I believe we ought to pass each and every one of them again this year as a part of the transportation reauthorization. In particular, I look forward to working with Senators STEVENS, LOTT, and INOUYE on the Commerce Committee portion of my transportation safety package.

I am thankful for the support and assistance of Senator ROCKEFELLER as the lead co-sponsor on the first several bills—the vehicle safety bills—as well as Senator LAUTENBERG's leadership as my chief co-sponsor on the drunk driving prevention campaign bill. Both Senators are great leaders on highway safety, and I'm pleased to be working with them this year in an effort to get these bills signed into law.

The first bill we call ''Stars on Cars.'' While its name is cute, its focus is quite serious. When you go to buy a new car, there is a large label in the window detailing the price, features, gas mileage, and other information about the vehicle. This label is referred to in the auto industry as the ''Monroney Label'' after a former member of this body, Senator MONRONEY from Oklahoma. We all know what the sticker looks like.

But, what we may not know is that most of the content on that sticker is mandated by the Federal Government. The mileage per gallon has been on there for a number of years. The Federal government says that your city mileage has to be on there and your highway mileage has to be on there. It has to tell you whether the vehicle has air-conditioning. It has to tell you whether it has a stereo. It has to tell you a whole bunch of other stuff.

One piece of information is not on there—and that is the vehicle's safety rating.

The funny thing is that in the vast majority of cases, you have already paid to have the Federal Government—specifically the National Highway Traffic Safety Administration (NHTSA)—spend millions of dollars to test that very car and others like it. In fact, the National Highway Traffic Safety Administration has put that information up on the Internet. Nonetheless, the basic fact is that when you go in to buy that car, that information is not available to you. It is not available to the American consumer in the one place where it would make a difference—where you buy the car, at the dealership.

Doing this right wouldn't cost the taxpayers another dime. The car companies are already printing the labels. Under this legislation, we would add a new section to the label titled ''Government Safety Information.'' The new section would clearly lay out information from each of the government crash tests—frontal crash impact, side impact, and rollover resistance. For vehicles that haven't been tested yet, the label will say so. We would show the ratings pure and simple, as graphical star ratings on the label, just like many automakers do in their commercials.

The bill requires that this be done in a manner that can be clearly understood by your average car buyer, with short explanations as to what each rating means.

What impact would this have? I happen to believe the consumer is better off with more information than less information on whatever we are talking about. The consumer ought to know what the Government does. The consumer ought to know that type of information. The consumer would make better choices. Consumers care about safety. They will make better choices, and in all likelihood, they are going to choose safer vehicles and more lives will, in fact, be saved.

It just makes good common sense to do this. We have worked hard to fashion a bill that gets this life-saving information to consumers in a way that is sensitive to the concerns of automakers, as well as the NHTSA. We've reached out to a broad coalition to craft our bill for 2005, and I look forward to working with interested parties to continue to improve and shape the language contained in it. In the end, this bill is my number one safety priority for passage into law this year.

The second bill we call ''Safe Kids and Cars.'' Cars, unfortunately, are involved in child deaths at unbelievable rates. According to NHTSA data, automobile accidents happen to be the leading cause of death in the United States for children age 4 and up, and are right among the top causes for those ages 0 to 3.

More than cancer, more than homicide, more than fire, more than drowning, more than anything else, auto accidents are the source of child fatalities. We have a problem. And, while I congratulate auto manufacturers, safety groups, and NHTSA for working hard on this issue, there's more work to be done. Anything we can do to make a car safer for our kids, we should be doing it. Complacency is not an option.

The focus of this bill is to improve data collection and vehicle testing with regard to some specific dangers that small children face. NHTSA has done an excellent job in terms of working from solid data, and this is one area where unfortunately we just don't have enough data to move forward. Likewise, we need the tools to perform effective vehicle tests once we have those numbers, and my bill contains measures to see to it that we develop these tools.

In terms of testing, child-size dummies are an area where NHTSA needs to review its testing and look for areas where increased use of these dummies would lead to increased safety, or a better understanding of how crash forces impact small children. My bill directs NHTSA to conduct a full review of test procedures and incorporate

these child dummies when and where suitable. We also ask the agency to give a status update on the extremely important Hybrid-III 10-year-old child test dummy.

The rest of the bill focuses on an emerging danger for small children often referred to as ''non-traffic, non-crash'' accident situations. These are incidents in which interaction between an automobile and a child leads to injury or death when the vehicle is not on the road, or where no actual crash has occurred. Instead, these are incidents that happen in parked cars, driveways, parking lots, and other very common situations. Unfortunately, these common situations can be deadly under the wrong circumstances.

A prime example of ''non-traffic, non-crash'' dangers to small children has to do with dangerous power window switches. In many cases, children are left alone in a vehicle and manage to inadvertently activate a power window switch—a situation which can lead to the window moving up and crushing a limb or other part of the child's body. Some children are killed almost instantaneously by the force of the rising window. These incidents are not terribly frequent, but they are preventable at almost no cost to consumers and manufacturers.

Power windows are an area where NHTSA has taken action since I last introduced the child safety bill, and I want to pause to thank Dr. Jeffrey Runge, NHTSA Administrator; Janette Fennel, President of the safety advocacy group Kids and Cars; and several other groups for their work to make the new power window safety rule possible. The new rule, which I helped announce in Columbus late last year, will lead to the elimination of unsafe power window switches—switches that can be accidentally tripped by children with ease—in every car and light truck sold in the United States. It is clearly a step in the right direction, and it will save lives.

Unsafe power window switches show one kind of ''non-traffic, non-crash'' danger children face today. Were it not for a one-time study of death certificates by NHTSA, we would have no government data whatsoever on how widespread this problem happens to be. We would not know much about other types of ''non-traffic, non-crash'' dangers, such as backover incidents and heat exhaustion in closed vehicles. These are areas where there is a clear need for better data collection and testing. My bill tackles each head-on.

The ''Safe Kids and Cars'' bill directs NHTSA to continue pushing forward on ''non-traffic, non-crash'' incidents by instituting, for the first time, regular collection of data on these kinds of accidents. With time and some solid data, we may be able to tackle other kinds of ''non-traffic, non-crash'' problems in the future. Understanding the problem is the first step.

A third bill has to do with dangerous road intersections. Every State has them. Most States, fortunately, rank these roads. They keep a list of the bad ones. But, amazingly, there are many States that keep this information secret and don't tell the public.

Again, citizens have a right to know this information. What would you do with the information? As a parent, I might tell my 16-year-old not to go that way to the movie. At least I have the right to have that information and would be able to say go another way. It might take another 10 minutes, but go that way. Don't go by that intersection. Don't go on that curvy road. State Departments of Transportation already have that information.

Each State should provide that information to the public. They already know it, and they should provide it. Policymakers need to know that to make decisions about how to spend money in that state and what roads to fix.

I would like to briefly talk about a woman by the name of Sandy Johnson and her mother Jacqueline. On October 5, 2002, Sandy and Jacqueline were killed in a car crash at a dangerous intersection near Columbus.

What they did not know as they drove into that intersection—and what countless other area residents who used the roads that cross through it did not know at the time—was that this particular intersection was known at that time by the Ohio Department of Transportation to be a very dangerous area. In fact, ODOT had indeed known that information for quite some time. Perhaps if Sandy Johnson had known that she would have taken a different route that day. We will never know.

Following the tragic death of his wife and his mother-in-law, Dean Johnson initiated a campaign to tackle the issue of dangerous roads and dangerous intersections, not just in Ohio, but across the country. He has tried with varying results from state to state to get information on dangerous roads and intersection locations out to the public so tragedies like the one involving his wife could be prevented.

As I have in the past, I would like to thank Dean Johnson for his dedication to this very important public safety issue and for the progress he has made in my home State of Ohio and elsewhere in terms of getting critical lifesaving information out to citizens through the Sandy Johnson Foundation. His assistance has been an asset in crafting this legislation, and I look forward to working with him in the future.

My bill requires that safety information be disclosed to the public as an eligibility requirement for a new Federal safety funding program—the Highway Safety Improvement Program. States seeking additional Federal dollars for safety construction projects will have to take the quick and easy step of identifying their danger spots, ranking them according to severity, and then disclosing them to the public. I believe this is the least we can ask from States in exchange for large chunks of federal aid.

In some cases, States would like to release the data but fear the legal ramifications of doing so. My bill contains a fix for this that provides the same kind of protection States already enjoy for other types of highway safety data. In other words, no legal harm could come to a State for releasing lists of dangerous locations under this bill.

Further, States need to find ways to get safety experts, law enforcement, engineers, transportation officials, and the general public working together to identify and correct dangerous locations. I've borrowed language in my bill from last year's Senate-passed SAFE–TEA bill—excellent language drafted and passed by Senator INHOFE and the Environment and Public Works Committee that creates incentives for States to foster this kind of collaboration. Collaboration between these entities is essential to finding quick, effective solutions to fatalities arising from dangerous intersections, as well as long stretches of roadway that account for high crash rates. I am including the Committee's language on Highway Safety Improvement Programs in my bill because I strongly believe that it is a step in the right direction.

The fourth bill I am introducing has to do with driver education. Teen driving is an area where fatality rates are extremely high and unfortunately where programs across the country are not getting the job done.

Above average crash and fatality rates may be inevitable for teenage drivers, but they can certainly be reduced substantially from present-day levels. The Federal Government cannot run driver education. It is clearly a State responsibility. But it can play a small, productive role.

For decades, our attempt to address this problem—standard classroom-based driver education—has been ineffective or worse, inspiring false confidence in students and parents alike that graduates are ready to drive safely. Fortunately, we've started to move in a new direction as a nation, with 41 States adding innovative graduated driver licensing (GDL) laws to their ongoing driver education efforts. These new laws have been proven to be effective in reducing accident and fatality rates. While my bill contains language to raise the bar on GDL laws and make them more effective, its real emphasis is on finding a better way with respect to driver education.

Revitalized driver education needs to be data-driven and cognizant of the limitations associated with classroom-based instruction. It must utilize new ways of inculcating young drivers with the knowledge and skills they need to avoid unnecessary high-risk situations, particularly in the first six months behind the wheel. Integration of driver education with the graduated driver licensing process to maximize the safety value of both programs also must be addressed.

Past failures in our Nation's history with regard to driver education are not a reason to abandon these programs. They are a reason to go back to the drawing board to re-invent more effective means of promoting safe driving.

A recent study by the National Institutes for Health sheds some light on the problem. The study suggests that due to their unique brain development, risk tolerance, and other tendencies—teen drivers are naturally inclined toward increased danger on the roads. Clearly, some methods used in driver education today aren't getting the message through, and in some areas, the message may never get through independent of who does the teaching.

NHTSA and its research partners must find ways to tailor the content and delivery of driver education so that it recognizes these realities and focuses on areas where novice drivers can learn the skills necessary to be safer drivers. A NHTSA pilot program is currently under way with several states to test out updated ''best practices'' driver education models—not mandates, not national standards, but just best practices.

My bill responds to the call for national leadership in driver education and licensing made at a recent National Transportation Safety Board forum by creating a Driver Education and Licensing Improvement Program within NHTSA. The new Improvement Program will provide NHTSA with the resources and time it needs to run the pilot program and then evaluate the results to see what works and what doesn't.

Once this pilot program has run its course, my bill provides a modest amount of grant funding to supply states with the resources and technical expertise necessary to implement the ''best practices'' model in a way that fits their specific needs and circumstances. The grants will be competitively awarded, and also will be available for fulfillment of several other state needs with regard to novice driver education and licensing. This grant program is 100 percent voluntary, and my bill has been crafted carefully to ensure that the prerogatives of States are protected in every manner.

The areas ripe for improvement are numerous: instructor certification, curriculum improvement, outreach to increase parental involvement, enforcement of graduated driver licensing laws, and follow-up testing to ensure program effectiveness. These are just a few examples. By creating a National Driver Education and Licensing Improvement Program within NHTSA, and tasking that program to come up with best practices, we can help States interested in improving their programs do so without having to expend the time and resources necessary to ''re-invent the wheel'' on their own.

I have worked for over a year with NHTSA, the American Driver Training and Safety Education Association, the Governors' Highway Safety Association, the American Motor Vehicle Administrators' Association, AAA, the Driving School Association of America, Advocates for Auto and Highway Safety, and several other groups to come up with the bill that will be introduced today. Its contents are a compromise that reflects significant input from each of these fine organizations, and I believe we are now at a point where the road ahead toward safer, more effective driver education and licensing programs is clear. The goals set by this bill are clear, and the means to achieve them are provided for in full. The time has come to take serious action on driver education and licensing in this country.

Lastly, I'd like to introduce the Safe Intersections Act of 2005. This bill would criminalize the unauthorized sale or use of mobile infrared transmitters, also known as ''MIRTs.''

A MIRT is a remote control for changing traffic signals. These devices have been used for years by ambulances, police cars, and fire trucks, and maintenance crews, allowing them to reach emergencies faster. As an ambulance approaches an intersection where the light is red, the driver engages the transmitter. That transmitter then sends a signal to a receiver on the traffic light, which changes to green within a few seconds. This is a very useful tool when properly used in emergency situations.

In a 2002 survey, the U.S. Department of Transportation found that in the top 78 metropolitan areas, there are 24,683 traffic lights equipped with the sensors. In Ohio, there is a joint pilot project underway by the Washington Township Fire Department and the Dublin Police Department to install these devices. Other areas in Ohio where they are in use include Mentor, Twinsburg, Willoughby, and Westerville. Here in the District of Columbia, emergency services across the country, law enforcement officers, fire departments, and paramedics utilize this technology to make communities safer.

However, recently it has come to light that this technology may be sold to unauthorized individuals—individuals who want to use this technology to bypass red lights during their commute or during their everyday driving. MIRT was never intended for this use. MIRT technology—in the hands of unauthorized users—could result in traffic problems, like gridlock, or even worse, accidents in which people are injured or killed.

Let me quote from an ad that was posted on the Internet auction site, eBay:

''Tired of sitting at endless red lights? Frustrated by lights that turn from green to red too quickly, trapping you in traffic? The MIRT light changer used by police and other emergency vehicles Change the Traffic Signal Red to Green [for] only $499.00. Traffic Signal Changing Devices—it's every motorist's fantasy to be able to make a red traffic light turn green without so much as easing off the accelerator. The very technology that has for years allowed fire trucks, ambulances, and police cars to get to emergencies faster—a remote control that changes traffic signals—is now much cheaper and potentially accessible.''

This ad demonstrates the extent to which the potential widespread sale and possession of MIRT technology by drivers would be a hazard to public safety and must be stopped before it starts. The Congressional Fire Service Institute, Ohio Fire Alliance, and several other organizations have come out in support of this measure. I look forward to working with my colleagues to ensure that it becomes law.

The sixth bill I am introducing today is a bi-partisan bill aimed at reducing the number of drinking and driving deaths and injuries on our roads. Tragically, our Nation has experienced increases in alcohol-related traffic fatalities three of the past four years. In 2003—the last year for which full statistics are available—17,013 Americans died in alcohol-related incidents. This total represents 40 percent of the 42,643 people killed in traffic incidents.

The bill I am introducing today along with Senator LAUTENBERG—the Traffic Safety Law Enforcement Campaign Act—would require states to conduct a combined media/law enforcement campaign aimed at reducing drunk driving fatalities. Specifically, the law enforcement portion consists of sobriety checkpoints in the District of Columbia and in the 39 States that allow them and saturation patrols in those states that do not. The Centers for Disease Control estimate that the sobriety checkpoints proposed in the underlying bill may reduce alcohol related crashes by as much as 20 percent. Law enforcement officials from across the United States underscored this point in a recent conference sponsored by MADD, making high visibility enforcement campaigns a top priority. More than 75 percent of the public has indicated in NHTSA polls their support for sobriety checkpoints. In fact, NHTSA has concluded that 62 percent of Americans want sobriety checkpoints to be used more often.

These six bills will go a long way. They are common sense. They will make a difference. This is something I have been interested in for many years, going back to my time in the Ohio Legislature 20 years ago when I introduced the drunk driving bill, and we were able to pass a tough drunk driving bill in the Ohio Legislature. I worked for .08. It was very controversial in the Senate, but we were able to pass .08. Senator LAUTENBURG and I worked on that.

Anytime you lose 42,643 Americans every year, highway safety is something we all have to be concerned about.

I know the SAFE–TEA highway bill is not on the Floor yet, but I have seen it, and of course was pleased to support

it on the Floor last year. As passed by the Senate in 2004, the bill goes farther than any highway bill regard to safety. This year's bill from the Environment and Public Works Committee will enable the same great progress on highway safety. I congratulate the authors.

In the weeks ahead, I look forward to working with the respective committees and outside organizations on the bills I have described above as amendments to the 2005 SAFE–TEA bill. But, I want to make it very clear that these bills and amendments are not in any way critical of the underlying bill. In fact, I hope they will be complementary and simply add to a good product that is already a good product and will help to improve it.

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 560

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 ''Stars on Cars Act of 2005''.

SEC. 2. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended—

(1) in subsection (e), by striking ''and'' at the end;

(2) in subsection (f)—

(A) in paragraph (3), by inserting ''and'' after the semicolon; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(g) if 1 or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

''(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

''(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

''(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including http://www.safecar.gov; and

''(4) is presented in a legible, visible, and prominent fashion and covers at least—

''(A) 8 percent of the total area of the label; or

''(B) an area with a minimum length of 4½ inches and a minimum height of 3½ inches; and

''(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.''.

(b) REGULATIONS.—Not later than January 1, 2006, the Secretary of Transportation shall issue regulations to implement the labeling requirements under subsections (g) and (h) of section 3 of the Automobile Information Disclosure Act, as added by subsection (a).

(c) APPLICABILITY.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2006, if the regulations under subsection (b) are prescribed not later than August 31, 2005; or

(2) September 1, 2007, if the regulations under subsection (b) are prescribed after August 31, 2005.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation, to accelerate the testing processes and increasing the number of vehicles tested under the New Car Assessment Program of the National Highway Traffic Safety Administration—

(1) $15,000,000 for fiscal year 2006;

(2) $8,134,065 for fiscal year 2007;

(3) $8,418,760 for fiscal year 2008;

(4) $8,713,410 for fiscal year 2009; and

(5) $9,018,385 for fiscal year 2010.

S. 561

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 ''Safe Kids and Cars Act of 2005''.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) REVIEW PROCESS REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a review process to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the review process under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) PUBLIC INPUT.—The Secretary of Transportation shall solicit and consider input from the public regarding the review process under paragraph (1).

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall publish a report regarding the implementation of this section. The report shall include information regarding the current status of the Hybrid-III 10 year old child test dummy.

(b) CHILD SAFETY INFORMATION PROGRAMS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall supplement ongoing consumer information programs relating to child safety with information regarding hazards to children in nontraffic, noncrash accident situations.

(2) ACTIVITIES TO SUPPLEMENT INFORMATION.—In supplementing such programs, the Secretary shall—

(A) utilize information collected in the database maintained under subsection (e) regarding nontraffic, noncrash injuries, as well as other relevant data from private organizations, to establish priorities for the program;

(B) address ways in which parents can mitigate dangers to small children arising from preventable causes, including backover incidents, hyperthermia in closed vehicles, and accidental activation of power windows;

(C) partner with national child safety research organizations and other interested organizations with respect to the delivery of program information; and

(D) make information related to child safety available to the public via the Internet and other means.

(c) REPORT ON VEHICLE VISIBILITY.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to Congress on the extent to which driver visibility of the area immediately surrounding [light passenger vehicles] and obstructions to such visibility affect pedestrian safety, including the safety of infants and small children, in nontraffic, noncrash situations.

(d) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to prevent deaths and injuries to small children resulting from vehicle blind spots and backover incidents.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall maintain a database of, and regularly collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) REGULATIONS.—The Secretary shall prescribe regulations regarding how to structure and compile the database. The Secretary shall solicit and consider input from the public regarding data collection procedures and the structure of the database maintained under paragraph (1).

(3) DEADLINES.—The Secretary shall—

(A) complete the prescription of regulations and the consideration of public input under paragraph (2) not later than September 1, 2006; and

(B) commence the collection of data under paragraph (1) not later than January 1, 2007.

(4) AVAILABILITY.—The Secretary shall make the database maintained under paragraph (1) available to the public.

S. 562

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 ''Safe Streets and Highways Act of 2005''.

SEC. 2. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) SAFETY IMPROVEMENT.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

''§ 148. Highway safety Improvement program

''(a) DEFINITIONS.—In this section:

''(1) DRIVER CONDITIONING.—The term 'driver conditioning' means the process by which drivers learn to respond to specific road conditions and traffic patterns that generally remain consistent over time, making the driver susceptible to error when confronted with minor changes in those road conditions or traffic patterns.

''(2) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

''(3) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

''(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

''(i) corrects or improves a hazardous road location or feature; or

''(ii) addresses a highway safety problem.

''(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

''(i) an intersection safety improvement;

''(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

''(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

''(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

''(v) an improvement for pedestrian or bicyclist safety;

''(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

''(II) construction of a railway-highway crossing safety feature; or

''(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

''(vii) construction of a traffic calming feature;

''(viii) elimination of a roadside obstacle;

''(ix) improvement of highway signage and pavement markings, including improvements designed to implement minimum retroflectivity standards in compliance with section 406 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1564), and signage designed to identify high-crash locations or address driver conditioning hazards;

''(x) installation of a priority control system for emergency vehicles at signalized intersections;

''(xi) installation of a traffic control or other warning device at a location with high accident potential;

''(xii) safety-conscious planning;

''(xiii) improvement in the collection and analysis of crash data;

''(xiv) planning, integrated, interoperable emergency communications, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

''(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

''(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

''(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

''(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—

''(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

''(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

''(i) promote the awareness of the public and educate the public concerning highway safety matters; or

''(ii) enforce highway safety laws.

''(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

''(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

''(A) is developed after consultation with—

''(i) a highway safety representative of the Governor of the State;

''(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

''(iii) representatives of major modes of transportation;

''(iv) State and local traffic enforcement officials;

''(v) persons responsible for administering section 130 at the State level;

''(vi) representatives conducting Operation Lifesaver;

''(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

''(viii) motor vehicle administration agencies; and

''(ix) other major State and local safety stakeholders;

''(B) analyzes and makes effective use of State, regional, or local crash data;

''(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

''(D) considers safety needs of, and high-fatality segments of, public roads;

''(E) considers the results of State, regional, or local transportation and highway safety planning processes;

''(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

''(G) is approved by the Governor of the State or a responsible State agency; and

''(H) is consistent with the requirements of section 135(f).

''(b) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

''(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

''(c) ELIGIBILITY.—

''(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

''(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

''(B) produces a program of projects or strategies to reduce identified safety problems;

''(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

''(D) submits to the Secretary an annual report that—

''(i) describes, in a clearly understandable fashion, not less than 25 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

''(ii) contains an assessment of—

''(I) potential remedies to hazardous locations identified;

''(II) estimated costs associated with those remedies; and

''(III) impediments to implementation other than cost associated with those remedies.

''(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

''(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

''(B) based on the analysis required by subparagraph (A)—

''(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

''(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

''(C) adopt strategic and performance-based goals that—

''(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

''(ii) focus resources on areas of greatest need; and

''(iii) are coordinated with other State highway safety programs;

''(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

''(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

''(ii) includes all public roads;

''(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

''(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

''(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

''(ii) identify opportunities for preventing the development of such hazardous conditions; and

''(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

''(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

''(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

''(d) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

''(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

''(B) as provided in subsection (e), for other safety projects.

''(2) USE OF OTHER FUNDING FOR SAFETY.—

''(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

''(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

''(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

''(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

''(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

''(f) REPORTS.—

''(1) IN GENERAL.—A State shall submit to the Secretary a report that—

''(A) describes progress being made to implement highway safety improvement projects under this section;

''(B) assesses the effectiveness of those improvements; and

''(C) describes the extent to which the improvements funded under this section contribute to the goals of—

''(i) reducing the number of fatalities on roadways;

''(ii) reducing the number of roadway-related injuries;

''(iii) reducing the occurrences of roadway-related crashes;

''(iv) mitigating the consequences of roadway-related crashes; and

''(v) reducing the occurrences of roadway-railroad grade crossing crashes.

''(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

''(3) TRANSPARENCY.—The Secretary shall make reports under subsection (c)(1)(D) available to the public through—

''(A) the Internet site of the Department; and

''(B) such other means as the Secretary determines to be appropriate.

''(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

''(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

''(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

''(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2005 through 2010, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.''.

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking ''subparagraphs (C) and (D)'' and inserting ''subparagraph (C)''; and

(II) by striking ''80 percent'' and inserting ''90 percent'';

(ii) in subparagraph (B), by striking ''tobe'' and inserting ''to be'';

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking ''paragraph (2)'' and inserting ''paragraph (1)''.

(3) ADMINISTRATION.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking ''(d)(2)'' each place it appears and inserting ''(d)(1)''.

(4) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

''148. Highway safety improvement program''.

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking ''sections 130, 144, and 152 of this title'' and inserting ''sections 130 and 144''.

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting ''under'' after ''State's apportionment''; and

(ii) in subsection (b)—

(I) in the first sentence, by striking ''the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)'' and inserting ''section 104(f) or 133(d)(2)''; and

(II) in the second sentence, by striking ''or 133(d)(2)''.

(D) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking ''152'' each place it appears and inserting ''148''.

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after ''Improvement program,'' the following: ''the highway safety improvement program,''; and

(2) by adding at the end the following:

''(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

''(i) 25 percent of the apportionments in the ratio that—

''(I) the total lane miles of Federal-aid highways in each State; bears to

''(II) the total lane miles of Federal-aid highways in all States.

''(ii) 40 percent of the apportionments in the ratio that—

''(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

''(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

''(iii) 35 percent of the apportionments in the ratio that—

''(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

''(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

''(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.''.

(c) ELIMINATION OF HAZARDS RELATING TO RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR RAILWAY-HIGHWAY CROSSINGS.—Section 130(e) of title 23, United States Code, is amended by inserting before ''At least'' the following: ''For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.''.

(2) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting ''and the Committee on Commerce, Science, and Transportation,'' after ''Public Works''; and

(B) by striking ''not later than April 1 of each year'' and inserting ''every other year''.

(3) EXPENDITURE OF FUNDS.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

''(k) EXPENDITURE OF FUNDS.—Funds made available to carry out this section shall be—

''(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

''(2) apportioned in accordance with section 104(b)(5).''.

(d) TRANSITION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) PENALTY.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b)(3) of title 23, United States Code.

S. 563

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 ''Driver Licensing and Education Improvement Act of 2005''.

SEC. 2. DRIVER LICENSING AND EDUCATION.

(a) NATIONAL DRIVER LICENSING AND EDUCATION IMPROVEMENT PROGRAM.—Section 105 of title 49, United States Code, is amended by adding at the end the following:

''(f)(1) There is established, within the National Highway Traffic Safety Administration, the National Driver Licensing and Education Improvement Program.

''(2) The National Driver Licensing and Education Improvement Program shall—

''(A) provide States with services for coordinating the motor vehicle driver education and licensing programs of the States;

''(B) develop, and make available to the States, a cooperatively developed, research-based model for novice driver motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing;

''(C) carry out such research and undertake such other activities that the Administrator determines appropriate to develop and continually improve the model described in subparagraph (B);

''(D) provide States with voluntary technical assistance for the implementation and deployment of the model described in subparagraph (B) through pilot programs and other means;

''(E) develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(b)(1)(D) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States;

''(F) develop programs identifying best practices for the certification of driver education instructors;

''(G) provide States with financial assistance under section 412 of title 23 for—

''(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

''(ii) the establishment or improved administration of multistage graduated licensing systems; and

''(iii) the support of other improvements in motor vehicle driver education and licensing programs;

''(H) evaluate the effectiveness of the comprehensive model recommended under subparagraph (B); and

''(I) perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

''(3) Not later than 3 years after the date of enactment of the Driver Licensing and Education Improvement Act of 2005, the Administrator shall submit to Congress a report on the progress made by the National Driver Licensing and Education with respect to the functions described in paragraph (2).''.

(b) GRANT PROGRAM FOR IMPROVEMENT OF DRIVER EDUCATION AND LICENSING.—

(1) AUTHORITY.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''§ 412. Driver education and licensing

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall establish a program to provide grants to States to—

''(A) improve motor vehicle driver education programs; and

''(B) establish and improve the administration of graduated licensing systems, including systems described in section 410(b)(1)(D).

''(2) PROGRAM ADMINISTRATION.—The Secretary shall administer the program established under this section through the National Driver Licensing and Education Improvement Program.

''(b) RULEMAKING.—

''(1) ELIGIBILITY REQUIREMENTS.—Not later than 18 months after the date of enactment of this section, the Secretary shall issue regulations, which describe the eligibility requirements, application and approval procedures and standards, and authorized uses of grant funds awarded under this section.

''(2) USE OF FUNDS.—The regulations issued under this subsection shall authorize the use of grant funds—

''(A) for quality assurance testing, including followup testing to monitor the effectiveness of—

''(i) driver licensing and education programs;

''(ii) instructor certification testing; and

''(iii) other statistical research designed to evaluate the performance of driver education and licensing programs;

''(B) to improve motor vehicle driver education curricula;

''(C) to train instructors for motor vehicle driver education programs;

''(D) to test and evaluate motor vehicle driver performance;

''(E) for public education and outreach regarding motor vehicle driver education and licensing; and

''(F) to improve State graduated licensing programs and carry out related enforcement activities.

''(3) CONSULTATION REQUIREMENT.—In prescribing regulations under this subsection, the Secretary shall consult with—

''(A) the heads of such Federal departments and agencies as the Secretary considers appropriate on the basis of relevant interests or expertise;

''(B) appropriate officials of the governments of States and political subdivisions of States; and

''(C) other experts and organizations recognized for expertise, with respect to novice drivers, in—

''(i) graduated driver licensing;

''(ii) publicly administered driver education; or

''(iii) privately administered driver education.

''(c) MATCHING REQUIREMENT.—The amount of grant funds awarded for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.

''(d) PROHIBITED ACTIVITIES.—Grant funds provided to States under this section may not be used to finance—

''(1) the day-to-day operational expenses, including employee salaries and facilities costs, of publicly or privately administered driver education programs; or

''(2) the activities described in subparagraphs (A) through (C) of subsection (b)(2) in fiscal year 2006 or 2007.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''412. Driver education and licensing.''.

(c) STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.—

(1) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $25,000,000 for each of the fiscal years 2006 through 2010 to carry out section 412 of title 23, United States Code, as added by subsection (b).

(2) AVAILABILITY.—Funds appropriated pursuant to paragraph (1) for fiscal years 2006 and 2007 may be used for the National Driver Licensing and Education Improvement Program established under section 105(f) of title 49, United States Code.

(e) GRANTS FOR SUPPORT OF ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—

(1) REVISED ELIGIBILITY REQUIREMENTS.—Section 410(b)(1)(D) of title 23, United States Code, is amended to read as follows:

''(D) GRADUATED LICENSING SYSTEM.—A multiple-stage graduated licensing system for young drivers that—

''(i) authorizes the issuance of an initial license or learner's permit to a driver on or after the driver's 16th birthday;

''(ii) makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater;

''(iii) provides for a learning stage of at least 6 months and an intermediate stage of at least 6 months; and

''(iv) applies the following restrictions and features to the stages described in clause (iii) and to such other stage or stages as may be provided under State law:

''(I) A restriction that not more than 2 passengers under age 18 may occupy a vehicle while it is being operated by a young driver.

''(II) Nighttime driving restrictions applicable, at a minimum, during the hours between 10:00 p.m. and 5:00 a.m.

''(III) Special penalties (including delays in progression through the stages of the graduated licensing system) for violations of restrictions under the system and violations of other State laws relating to operation of motor vehicles.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 1 year after the date of enactment of this Act.

S. 564

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 ''Safe Intersections Act of 2005''.

SEC. 2. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''§ 39. Traffic signal preemption transmitters

''(a) OFFENSES.—

''(1) SALE.—A person who knowingly sells a traffic signal preemption transmitter in or affecting interstate or foreign commerce to a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity, shall, notwithstanding section 3571(b) of title 18, United States Code, be fined not more than $10,000, imprisoned not more than 1 year, or both.

''(2) USE.—A person who makes unauthorized use of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

''(b) DEFINITIONS.—In this section, the following definitions apply:

''(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any mechanism that can change or alter a traffic signal's phase time or sequence.

''(2) UNAUTHORIZED USE.—The term 'unauthorized use' means use of a traffic signal preemption transmitter by a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity. The term 'unauthorized use' does not apply to use of a traffic signal preemption transmitter for classroom or instructional purposes.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''39. Traffic signal preemption transmitters.''.

S. 565

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 ''Traffic Safety Law Enforcement Campaign Act''.

SEC. 2. TRAFFIC SAFETY LAW ENFORCEMENT CAMPAIGNS.

(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish a program to conduct at least 3 high-visibility traffic safety law enforcement campaigns each year.

(b) FOCUS.—The campaigns shall focus on—

(1) reducing alcohol-impaired driving;

(2) increasing seat belt use; and

(3) a combination of reducing alcohol-impaired driving and increasing seat belt use.

(c) ADVERTISING.—The Administrator may use, or authorize the use of, funds available to carry out this section for the development, production, and use of broadcast and print media advertising in carry out this section.

(d) EVALUATION AND REPORT.—The Administrator shall evaluate the effectiveness of the campaigns at the end of each year and, not later than 90 days after the end of each year, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that sets forth the findings, conclusions, and recommendations of the Administrator with respect to the program.

SEC. 3. FUNDING.

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than from the Mass Transit Account) to the Administrator to carry out this Act $150,000,000 for each of fiscal years 2006 through 2011, of which—

(1) $48,000,000 shall be used for each fiscal year for nationwide advertising by the Administration;

(2) $48,000,000 shall be made available each fiscal year by the Administrator to States for advertising;

(3) $48,000,000 shall be made available each fiscal year by the Administrator to States for traffic safety law enforcement; and

(4) $6,000,000 shall be available to the Administrator for evaluation of the program under section 2.

(b) PROGRAM STANDARDS.—Within 120 days after the date of enactment of this Act, the Administrator shall promulgate program standards and criteria for the use of funds under subsection (a)(2) and (3) that will ensure the effective and appropriate use of such funds in accordance with this Act, taking into account State efforts, needs, administrative resources, and priorities.

(c) APPORTIONMENT.—The Administrator shall apportion funds under subsection (a)(2) and (3) among the States on the same basis as funds are apportioned among the States under section 402(c) of title 23, United States Code.

By Mr. ROCKEFELLER (for himself, Mr. KENNEDY, Mr. CORZINE, and Mr. LAUTENBERG):

S. 566. A bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, millions of seniors and disabled Americans are facing a major disruption in their health care when the Medicare prescription drug law goes into effect on January 1, 2006. On that singular date, 6.4 million dual eligibles—individuals who are eligible for both Medicare and full Medicaid benefits—will lose their Medicaid prescription drug coverage regardless of whether they have obtained coverage through a Medicare Part D prescription drug plan and regardless of whether their Part D plan's coverage is as broad as their State's Medicaid coverage. Such a short transition period leaves no time to address the inevitable problems that will occur with a transition of this magnitude.

Dual eligibles should have as smooth a transition as possible to Medicare prescription drug coverage. Unfortunately, a smooth transition is not what will happen under current law. The Medicare prescription drug law only requires a six-week transition period for dual eligibles, from November 15, 2005, to January 1, 2006. This is the largest transition of individuals from one insurance program to another, public or private, and it is unrealistic to believe that such a huge transition can take place in the span of six weeks.

Moving a large number of seniors and people with disabilities to an entirely new system for prescription drug coverage is a major undertaking. Dual eligibles will require adequate outreach, education, and time to adjust to a change of this magnitude. The stakes are extremely high for this population. Over half are limited in activities of daily living. Many live alone or in nursing homes. And, in comparison to other Medicare beneficiaries, dual eligibles are much more likely to have heart disease, pulmonary disease, diabetes, or Alzheimer's. Therefore, it is absolutely critical that we get this transition right the first time.

The Centers for Medicare and Medicaid Services (CMS) has taken several steps to improve the transition of the dual eligibles from Medicaid to Medicare. However, I fear these steps do not go far enough. Automatic enrollment does not guarantee that beneficiaries will know that they have been enrolled in a new Medicare drug plan or know how to access necessary prescription drugs using that drug plan. Once beneficiaries are enrolled, they are likely to experience ongoing confusion about covered drugs, authorized pharmacies, and the Medicare appeals process.

In its June 2004 report to Congress, the Medicare Payment Advisory Commission (MedPAC) suggested that even large, private employers need at least six months to transition their employees' drug coverage from one pharmacy benefit manager to another. The two large employers that MedPAC studied had 25,000 and 75,000 employees, respectively. The states and the federal government are taking on a far more complex task with 6.4 million dual eligibles, and should have at least six months to transition the duals to Medicare in order prevent major disruptions in access to prescription drugs.

I am pleased to be joined today by my distinguished colleagues in the Senate, Senators KENNEDY, CORZINE, and LAUTENBERG, as well my distinguished co-sponsor in the House of Representatives, Congressman TOM ALLEN of Maine, in introducing the Medicare Dual Eligible Prescription Drug Coverage Act of 2005. This important legislation would extend the dual eligible transition period to six months in order to achieve the best possible health outcomes for some of our Nation's most vulnerable citizens. An extended timeframe would give states enough time to carry out comprehensive education and outreach initiatives. It would also give seniors and individuals with disabilities time to explore their options and gradually transition to Medicare Part D.

Specifically, the Medicare Dual Eligible Prescription Drug Coverage Act of 2005 would extend the availability of Medicaid prescription drug coverage for six months while still allowing the Part D benefit to be implemented as scheduled. Since states would be temporarily supplementing Medicare Part D, they would be fully relieved of any ''clawback'' responsibilities during the six-month transition. This legislation would also provide dedicated resources

for education and outreach to the dual eligibles, including additional resources for State Health Insurance Assistance Programs (SHIPs). Finally, the Medicare Dual Eligible Prescription Drug Coverage Act would require CMS to share drug utilization data with state Medicaid programs so that states can appropriately coordinate non-prescription drug coverage for the duals.

This is an issue of fundamental fairness. The Medicare law provides Medicare beneficiaries who are not dually eligible for Medicaid six months to transition to Medicare prescription drug coverage. Dual eligibles should not be treated any differently. Medicare's universality is something I fought hard for during the Medicare debate. I strongly believe low-income seniors and disabled individuals should not be excluded from Medicare benefits because of their income levels. The Medicare law should not merely support the principle of universality in statute. It must also support universality in fact, and that means Medicare beneficiaries who are dually eligible for Medicaid must also be given enough time to make a smooth transition to Medicare.

I look forward to working with my colleagues to pass this important legislation. I ask that the full text of this bill, be printed in the RECORD.

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

S. 566

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 ''Medicare Dual Eligible Prescription Drug Coverage Act of 2005''.

SEC. 2. FINDINGS.

The Senate finds the following:

(1) Individuals who are dually eligible for benefits under the medicare program and full benefits under the medicaid program—

(A) are among the most vulnerable populations in our society; and

(B) require adequate outreach, education, and timing in order to adjust to changes in our health care delivery system.

(2) The transition of 6,400,000 dual eligibles from prescription drug coverage under the medicaid program to prescription drug coverage under part D of the medicare program is the largest transition ever of individuals from one insurance program to another.

(3) In its June 2004 report to Congress, the Medicare Payment Advisory Commission (MedPAC) suggested that large, private employers with 75,000 employees or less need at least 6 months to transition their employees' drug coverage from one pharmacy benefit management company to another such company. The States and the Federal Government are taking on a far more complex task with 6,400,000 dual eligibles having to make the transition described in paragraph (2).

(4) Timely access to prescription drugs leads to higher quality of life and prevents avoidable emergency room visits, hospitalizations, and premature nursing home placements.

(5) Since even a short-term gap in prescription drug coverage could have serious health consequences for dual eligibles, Congress must work to guarantee as smooth a transition as possible for dual eligibles so that no dual eligible is without prescription drug coverage even for one day.

SEC. 3. CONTINUING STATE COVERAGE OF MEDICAID PRESCRIPTION DRUG COVERAGE TO MEDICARE DUAL ELIGIBLE BENEFICIARIES FOR 6 MONTHS.

(a) SIX-MONTH TRANSITION.—For prescriptions filled during the period beginning on January 1, 2006, and ending on June 30, 2006, section 1935(d) of the Social Security Act (42 U.S.C. 1396u–5(d)) shall not apply and, notwithstanding any other provision of law, a State (as defined for purposes of title XIX of such Act) shall continue to provide (and receive Federal financial participation for) medical assistance under such title with respect to prescription drugs as if such section 1935(d) had not been enacted.

(b) APPLICATION.—

(1) MEDICARE AS PRIMARY PAYER.—Nothing in subsection (a) shall be construed as changing or affecting the primary payer status of a prescription drug plan or an MA–PD plan under part D of title XVIII of the Social Security Act with respect to prescription drugs furnished to any full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act (42 U.S.C. 1396u–5(c)(6)) during the 6-month period described in such subsection.

(2) THIRD PARTY LIABILITY.—Nothing in subsection (a) shall be construed as limiting the authority or responsibility of a State under section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) to seek reimbursement from a prescription drug plan, an MA–PD plan, or any other third party, of the costs incurred by the State in providing prescription drug coverage described in such subsection.

SEC. 4. DELAY IN IMPLEMENTATION OF MEDICAID CLAWBACK PAYMENTS.

Notwithstanding section 1935(c) of the Social Security Act (42 U.S.C. 1396u–5(c)), a State or the District of Columbia shall not be required to provide for a payment under such section to the Secretary of Health and human Services for any month prior to July 1, 2006.

SEC. 5. EDUCATION AND OUTREACH TO DUAL ELIGIBLES REGARDING PRESCRIPTION DRUG COVERAGE AND MONITORING OF THE TRANSITION OF DUAL ELIGIBLES TO PRESCRIPTION DRUG COVERAGE UNDER MEDICARE.

(a) MMA AMOUNTS.—Notwithstanding any other provision of law, of the amounts appropriated for the Centers for Medicare & Medicaid Services under section 1015(a)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2446), the following rules shall apply:

(1) EDUCATION AND OUTREACH TO DUALS.—$100,000,000 shall be used to provide education and outreach, including through one-on-one counseling and application assistance, to full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1396u–5(c)(6))) regarding prescription drug coverage under part D of title XVIII of the such Act. Of such amount—

(A) at least $20,000,000 (but in no case more than $50,000,000) shall be used to award grants to States under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4) to provide such education and outreach; and

(B) the remaining amount shall be used to provide funding to community-based organizations that work with full-benefit dual eligible individuals (as so defined) in order to provide such education and outreach.

(2) MONITORING IMPACT ON DUALS.—

(A) IN GENERAL.—$50,000,000 shall be used by the Centers for Medicare & Medicaid Services, in consultation with the Centers for Disease Control and Prevention, the Administration on Aging, and the Social Security Administration, to develop and implement a standardized protocol to collect data from health departments and other sources in 10 representative urban and rural communities on the impact of the transition of full benefit dual eligible individuals (as so defined) from prescription drug coverage under the medicaid program to prescription drug coverage under part D of the medicare program. Such protocol shall be implemented by not later than July 1, 2005.

(B) MONITORING.—The protocol developed under subparagraph (A) shall include for the monitoring of the following information with respect to such full benefit dual eligible individuals:

(i) Emergency room visit rates.

(ii) Hospitalization rates.

(iii) Nursing home placement rates.

(iv) Deaths.

(C) COLLECTION BY PDPS AND MA–PDS.—The protocol developed under subparagraph (A) shall require that such data be collected by the prescription drug plans and the MA–PDs in which the individuals are enrolled and include information on race and ethnicity.

(D) REPORTS.—Not later than January 1, 2006, and July 1, 2006, the Administrator of the Centers for Medicare & Medicaid Services, in consultation with the Centers for Disease Control and Prevention, the Administration on Aging, and the Social Security Administration, shall submit a report to Congress on the implementation of the protocol under subparagraph (A).

(b) NEW AMOUNTS.—There are appropriated to the Secretary of Health and Human Services, to be transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, for fiscal year 2005 and each subsequent fiscal year, an amount not to exceed $50,000,000 (or if greater, an amount equal to $1 multiplied by the number of individuals entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title for the year) in order award grants to States under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4).

(c) EXTENSION OF AVAILABILITY OF AMOUNTS APPROPRIATED UNDER MMA.—Section 1015(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2446) is amended by striking ''September 30, 2005'' and inserting ''September 30, 2006''.

SEC. 6. COLLECTION AND SHARING OF DUAL ELIGIBLE DRUG UTILIZATION DATA.

(a) IN GENERAL.—Section 1860D–42 of the Social Security Act (42 U.S.C. 1395w–152) is amended by adding at the end the following new subsection:

''(c) COLLECTION AND SHARING OF DUAL ELIGIBLE DRUG UTILIZATION DATA.—

''(1) PLAN REQUIREMENT.—A PDP sponsor of a prescription drug plan and an MA organization offering an MA–PD plan shall submit to the Secretary such information regarding the drug utilization of enrollees in such plans who are full-benefit dual eligible individuals (as defined in section 1935(c)(6)) as the Secretary determines appropriate to carry out paragraph (2).

''(2) COLLECTION AND SHARING OF DATA.—The Secretary shall collect data on the drug utilization of full-benefit dual eligible individuals (as so defined). The Secretary shall share such data with the States and the District of Columbia in as close to a real-time basis as possible.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 101(a) of

the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

SEC. 7. GAO STUDY ON THE CLAWBACK FORMULA.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the clawback formula contained in section 1935(c) of the Social Security Act (42 U.S.C. 1396u–5(c)), as added by section 103(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2155).

(2) REQUIREMENTS.—The study conducted under paragraph (1) shall include a full examination of—

(A) disincentives for States to enroll full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1396u–5(c)(6))) in the medicaid program or part D of title XVIII of the Social Security Act;

(B) the 6-month delay in States receiving rebate data;

(C) the prescription drug cost containment measures implemented by States after 2003; and

(D) issues relating to States having to pay more for prescription drug coverage for full benefit dual eligible individuals (as so defined) than they otherwise would have if the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2066 et seq.) had not been enacted.

(b) REPORT.—Not later than April 1, 2006, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a) together with such recommendations as the Comptroller General determines appropriate.

By Mr. LUGAR:

S. 567. A bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President. Today I rise to introduce the Nonprofit Athletic Organization Protection Act of 2005. I am pleased to join with my good friend and colleague, Representative MARK SOUDER, in introducing this measure. This legislation is based on a bill that was introduced in the last legislative session.

I believe that this legislation is very important to encouraging health promotion in our country. The United States has invested a tremendous number of resources in providing our children with the ability to promote fitness through sports. In every town in America, you will find boys and girls playing America's most popular sports: baseball, soccer, football, and, of course, basketball. A recent study by the Sporting Goods Manufacturers Association showed that in 2000 at least 36 million American children played on at least one team sport. Of those 36 million, 26 million children between the ages of 6 and 17, played on an organized team in an organized league. A study by Statistical Research, Inc. for the Amateur Athletic Foundation and ESPN found that 94 percent American children play some sport during the year.

The ability for children to participate in sporting events provides our society many benefits that government cannot provide. Studies have shown that these benefits include betterment to a child's health, academic performance, social development and safety. The most obvious benefit of organized sports is physical fitness. The National Institute of Health Care Maintenance has identified physical activity such as sports as a key factor in the maintenance of a healthy body. Lack of physical activity, along with unhealthy eating habits, has been identified as the leading cause of obesity in children. The center notes: ''Physical activity provides numerous mental and physical benefits to health, including reduction in the risk of premature mortality, cardiovascular diseases, hypertension, diabetes, depression, and cancers.'' A Cooper Institute for Aerobics Research study indicated, ''Low fitness outranks fatness as a risk factor for mortality.'' By encouraging our children to participate in organized sports, we increase physical fitness and fight obesity.

A second benefit in the participation of organized sports is an increase in academic performance. The National Institute of Health Care Maintenance has highlighted ''a recent large-scale analysis reported by the California Department of Education [has shown] that the level of physical fitness attained by students was directly related to their performance on standardized achievement measures.'' When we encourage our children to participate in organized sports, we increase the ability for them to achieve academically.

A third benefit for young people who participate in organized sports is that they learn positive social development. Organized sports teach values of teamwork, fair play, and friendly competition. Success in organized sports is also a vital self-esteem builder in many children.

These three benefits have been widely discussed on the floor of the Senate and we have acted to implement several programs designed to reduce obesity and increase fitness, educational standards and the social well-being of our children.

The fourth benefit to participation in organized youth sports, providing a safe place to play, is a topic that has not received as much attention as the first three. Nonetheless, it is no less important. Fewer kids are simply going outside to play, due to the attraction of TV, video games, and the Internet, combined with parents' safety concerns about letting children run around outside unsupervised. As a result, organized sports teams are an increasingly important source of safe physical activity in children. The American Academy of Pediatrics has stated, ''In contrast to unstructured or free play, participation in organized sports provides a greater opportunity to develop rules specifically designed for health and safety.''

One primary reason why organized sports provide such an opportunity for safe play is that non-profit, volunteer organizations establish rules to provide a safe place to play. These organizations are made up of professional people who are in the business of providing children a fun and safe avenue for athletic exercise. Organizations like the Boys and Girls Club, the National Council of Youth Sports, the National Federation of State High School Associations and others exist largely to establish rules in order to minimize the risk of injury our children face while participating in sports. No matter how well these organizations perform their work, however, boys and girls will be injured.

Over the last several years, more and more of these rule making bodies have become targets for lawsuits seeking to prove that the rule maker was negligent in making the rules of play. These lawsuits claim that had a different rule been in place, the injury would not have happened. Indeed, these suits place rule makers into a Catch–22. A child can be injured in almost any situation no matter how a rule is written. The result has been to have more and more lawsuits.

As a consequence, the insurance premiums of these organizations have risen dramatically over the past several years. In his testimony before the House Judiciary Committee last year, Robert Kanaby the Executive Director of the National Federation of State High School Associations testified that:

''Over the last three years, the annual liability insurance premiums for the National High School Federation have increased three-fold to about $1,000,000. We have been advised by experts that given our claims experience and the reluctance of insurers to offer such coverage to an organization 'serving 7,000,000 potential claimants,' the premiums will likely increase significantly in years to come. Since we operate on a total budget of about $9,000,000, such an increase would be, to put it mildly, problematical.''

The costs have increased to the point where it is possible that these organizations will cease from providing age appropriate rules and the safety of youth sports will decline.

Because of this problem, I join, once again, with Representative MARK SOUDER in introducing the Nonprofit Athletic Organization Protection Act of 2005. This legislation will eliminate lawsuits based on claims that a nonprofit rulemaking body is liable for the physical injury when the rules was made by a properly licensed rulemaking body that has acted within the scope of its authority. Lawsuits may be maintained if the rule maker was grossly negligent or engaged in criminal or reckless misconduct. This reasonable legislation will help sports rule makers to do their job. If we do not pass this legislation, it is likely that rule makers will eventually close their doors since they will be unable to afford the insurance needed to provide a safe sporting environment.

No one who has participated in the debate surrounding this problem has disagreed that the current lawsuit culture needs reform. Instead, concerns have arisen that the remedy was overly broad preventing lawsuits against rule makers on other issue.

To remedy these concerns, the legislation introduced today contains a provision that explicitly says that lawsuits involving ''antitrust, labor, environmental, defamation, tortuous interference of contract law or civil rights law, or any other federal, state, or local law providing protection from discrimination'' are not barred by this bill. This provision was worked out between the civil rights groups, including the National Women's Law Center and the National Federation of State High School Associations, in an effort to alleviate this concern.

As many of my colleagues know, I am a runner. I enjoy the activity and the positive effect that running and athletics have played in my life. I would hope that my nine grandchildren will be able to have an opportunity to participate in organized sports and that lawsuits against rule makers for allegedly faulty rules will not prevent these organizations from functioning properly. I look forward to the consideration and passage of the Nonprofit Athletic Organization Protection Act of 2005 during the 109th Congress.

By Ms. SNOWE (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. CORZINE, and Mrs. BOXER):

S. 569. A bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services, to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today, on International Women's Day, to introduce the Women's Health Office Act with my colleague, Senator BARBARA MIKULSKI.

Historically, women's health care needs have been ignored or poorly understood, and women have been systematically excluded from important health research. We heard just this week about a landmark example. One federally-funded study examined the ability of aspirin to prevent heart attacks in 20,000 medical doctors, all of whom were men, despite the fact that heart disease is the leading cause of death among women. When a benefit was found in men, many physicians assumed that the same protective effect applied to women. Just this week, after research on women was finally conducted, we learned that the effect of aspirin on women appear to be quite different. We are simply not protected in the same way men are protected. It is tragic that so much of our medicine has been based on such assumptions.

Today we recognize that both genders should benefit equally from medical research and health care services. Yet equity does not yet exist in health care, and we have a long way to go. Knowledge about differences in women—in symptoms of disease, and in appropriate measures for prevention and treatment—frequently lags far behind our knowledge of men's health.

We must also recognize that some diseases—such as ovarian cancer and endometriosis—affect only women. Other diseases affect women disproportionately—such as osteoporosis. We also see differences in health care access between men and women. These simply must be reflected in our health policy.

It is for these reasons that we are again introducing the Women's Health Office Act. This legislation provides permanent authorization for offices of women's health in five federal agencies: the Department of Health and Human Services; the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality; the Health Resources and Services Administration; and the Food and Drug Administration. Currently only two women's health offices in the Federal Government have statutory authorization; the Office of Research on Women's Health at the National Institutes of Health and the Office for Women's Services within the Substance Abuse and Mental Health Services Administration.

With some offices established, but not authorized, the needs of women could be compromised without the consent of Congress. We must create statutory authority for these offices, to ensure that health policy flows from fact, not assumption. Improving the health of American women requires a far greater understanding of women's health needs and conditions, and ongoing evaluation in the areas of research, education, prevention, treatment and the delivery of services—and this bill will ensure that.

I must also note today, on International Women's Day, that of all the disease threats to women, few rival the threat of AIDS. Increasingly, the face of the individual with HIV-infection is a woman's. Tragically, it is often the woman's husband who places her at risk, yet in many societies, the status of women makes her use of prevention difficult. One promising way to counter the risk of HIV infection is the development of an effective microbicide—a typical product which women could use to reduce their risk of contracting HIV. A number of scientists are working to develop such a product. If successful, this could prevent millions of infections, and would be a practical means of prevention in much of the world where options for women are so few. For this reason I again join Senator CORZINE today in introducing the Microbicides Development Act. This legislation will establish a coordination of this development at the NIH to reduce the toll of AIDS. Just today we read of a promising new microbicide which appears to show great promise. We must ensure that the promise of microbicides become reality for millions of women. This research is spread over multiple Institutes at NIH, and definitely will benefit from the coordination and integration which this Act will instill.

Today, on a day when we recognize both the achievements and contributions of women, it is fitting, that we provide the support and opportunity to facilitate the continued progress of women, I call on my colleagues to join me in supporting this legislation, which will ensure better health for our mothers, our sisters, our daughters, both here and abroad.

Ms. MIKULSKI. I rise to introduce the Women's Health Office Act with my colleague, Senator OLYMPIA SNOWE. The Women's Health Office Act authorizes and strengthens women's health offices or officers at Federal health agencies in the Department of Health and Human Services. This legislation will make sure that men and women get equal benefit from Federal investments in medical research and health care services.

Today, doctors, scientists, Members of Congress, and the American public know that women and men have different bodies and different health care needs. Diseases like ovarian cancer and endometriosis affect only women. Women are four times more likely to develop osteoporosis than men and according to some estimates, half of all women over 50 will fracture a bone because of osteoporosis in her lifetime.

Despite these differences, men's health needs have set the standard for our health care system and our health care research agenda. Women have been systematically excluded from medical research because decisionmakers said that our hormone cycles complicated the results. One study on heart disease risk factors was conducted on 13,000 men—and not one women. But the results of studies like these were applied to both men and women. This neglect puts women's health and lives at risk.

That's why my colleagues and I took action. More than a decade ago, I worked with OLYMPIA SNOWE, TED KENNEDY, TOM HARKIN, and other women in the House to get an Office of Research on Women's Health at the National Institutes of Health, NIH. In 1993, I worked with these same women and Galahads in Congress to make sure that the women's health office would stay at NIH by putting it into law.

This office at NIH has made a real difference in how women are treated for certain illnesses. We now know that men and women often have different symptoms before a heart attack. Women's symptoms are more subtle, like nausea and back pain. Knowing these symptoms means women can get to the hospital sooner and can be treated earlier. That's turning women's health research into life-saving information.

I am proud that there are now women's health offices or officers at nearly every federal health agency at the Department of Health and Human Services. Like the one at NIH, women's

health offices mean that women's health needs are always at the table. These offices at the Food and Drug Administration, FDA, the Centers for Disease Control and Prevention, CDC, and the Health Resources and Services Administration, HRSA, make sure women are included in clinical drug trials, reach out to low-income and minority women to make sure they are getting vaccines and cancer screenings, and work with health care providers to put research on women's health into practice. Recent questions about the risks and benefits of mammography and hormone replacement therapy remind us that women's health offices are as important as ever.

Right now, many of these offices—and the important work they do—could be eliminated or cut back without the consent of Congress. That is why this bill is so important. This bill would put women's health offices into our nation's lawbooks.

The Women's Health Office Act does more than protect the status quo. It keeps us moving forward on women's health. It gives women's health offices a clear, consistent framework throughout the department. By writing them into law, it gives women's health offices the stature they need to be strong, effective advocates for women's health within the Federal Government. This legislation coordinates women's health activities within each agency, to identify needs and set goals. The Women's Health Office Act centralizes overall coordination throughout the Department of Health and Human Services, to clarify lines of accountability and chart a clear course on women's health. Finally, it authorizes funding for these women's health offices or officers, to make sure that we put our nation's priorities in the federal checkbook as well as the Federal lawbooks.

I would like to thank Senator OLYMPIA SNOWE for leading the way on this important legislation. As Dean of the Senate women, I will continue to fight to get this bill signed into law and to make progress to improve the health of American women.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 73—HONORING THE LIFE OF ENRIQUE ''KIKI'' CAMARENA

Mr. BIDEN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 73

Whereas Enrique ''Kiki'' Camarena, a Special Agent of the Drug Enforcement Administration for 11 years, was abducted and brutally murdered by drug barons in 1985;

Whereas Enrique Camarena dedicated his life to serving the law enforcement community and the Nation as a whole and was the devoted husband of Geneva Alvarado and loving father of Enrique, Daniel, and Eric;

Whereas Enrique Camarena received 2 Sustained Superior Performance Awards and a Special Achievement Award while serving the Drug Enforcement Administration;

Whereas Enrique Camarena's dedication to reducing the scourge of drugs eventually cost him his life;

Whereas ''Camarena Clubs'' to combat drug abuse have been created in high schools across the Nation to honor his memory;

Whereas Enrique Camarena is honored each year during National Red Ribbon Week; and

Whereas the 20th Anniversary of Enrique Camarena's death will be specially honored on March 9, 2005, at the Drug Enforcement Administration headquarters: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Enrique ''Kiki'' Camarena;

(2) recognizes the contributions of Enrique Camarena to our National efforts to combat drug abuse;

(3) admires the courage and dedication of Enrique Camarena in his work as a Special Agent of the Drug Enforcement Administration;

(4) expresses gratitude for the legacy left by Enrique Camarena; and

(5) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Enrique Camarena.

Mr. BIDEN. Mr. President, I rise today to submit a resolution to commemorate the outstanding life and tragic but courageous death of Enrique ''Kiki'' Camarena, a Special Agent of the Drug Enforcement Administration.

Enrique grew from a boy in the small town of Mexicali in Baja California, Mexico to a man as a United States Marine. During his two year tour as a Legal Clerk with the Marine Corps in San Diego, Enrique received the National Defense Service Medal. It was during this time that Enrique first demonstrated his dedication to the United States.

Following his honorable discharge from the Marine Corps in 1970, Enrique demonstrated his courage as a fireman for the City of Calexico while demonstrating his intelligence as a student at Imperial Valley College, where he earned an Associates degree in 1972. It was also in 1970 that Enrique Camarena first showed his interest in law enforcement by joining the Calexico, CA Police Department. In May 1973, he began what would be his life-long fight against drug abuse when he was assigned to El Centro, CA, where he served for 13 months as a Narcotics Investigator for Imperial County.

Those 13 months as a Narcotics Investigator proved to be a life-altering time for Enrique. In June 1974, he took his determination to dismantle drug organizations to the Federal level, as a Special Agent of the Drug Enforcement Administration. During his time with DEA, Special Agent Camarena returned to his hometown in California for several years prior to his assignment in Guadalajara, Mexico, which began in July 1981.

During his 11 years with DEA, Special Agent Enrique Camarena received two Sustained Superior Performance Awards and a Special Achievement Award. Each award recognized Enrique's dedication to the fight against drug abuse and determination to scourge our country of illegal drugs.

His frustration with the drug trade was perhaps most evident by a statement that would later prove to be prophetic: He asked, ''What's gonna have to happen? Does somebody have to die before anything is done? Is somebody going to have to get killed?''

On Thursday, February 7, 1985, at 2:00 p.m., Special Agent Camarena left the American Consulate in Guadalajara to meet his wife for lunch. Having come dangerously close to unlocking a multi-billion drug pipeline, Enrique was awaiting a reassignment, which was just three weeks away. Enrique never met his wife for lunch that day and he never received his reassignment.

As he neared his truck that afternoon, five men approached him and shoved him into a car. By February 10, DEA Administrator Francis ''Bud'' Mullen had flown to Guadalajara and to help begin the search for Enrique.

On March 5, Enrique's body was found on a ranch outside of the town of Zamora, Mexico, approximately 60 miles outside of Guadalajara. Autopsy reports indicated that Special Agent Camarena had been tortured and beaten. Three days after his body was discovered, twenty years ago today, he was returned to the United States for burial.

Following the death of Special Agent Enrique Camarena and the press attention that the killing generated, ''Camarena Clubs'' started throughout the El Cajon, CA area. These ''Camarena Clubs'' were formed to create a united front against drug abuse among students, teachers and others in the community.

The summer of 1985 saw a surge in national interest in Enrique's memory and the problems of drug abuse. The Virginia Federation of Parents and the Illinois Drug Education Alliance called on every American to wear red ribbons to symbolize their commitment to help reduce the demand for drugs in their communities. Since then, the Red Ribbon campaign has taken on national significance.

Red Ribbon Week is celebrated annually in cities across the country. The DEA and many other drug abuse prevention organizations around America help to sponsor this annual event. In Delaware, the Substance Abuse Awareness Committee sponsors Red Ribbon Week each October to take a visible stand against drugs through the symbol of the Red Ribbon.

Special Agent Enrique Camarena was a devoted husband to Geneva ''Mika'' Alvarado and a loving father to three sons, Enrique, Daniel and Eric. Today, I ask that the United States Senate formally recognize the life and death of Kiki, as his family lovingly calls him, to place official emphasis on the impact he made on America.