STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. JOHNSON of South Dakota):

S. 1161. A bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRASSLEY. Mr. President, I come to the floor to introduce a piece of legislation that I have introduced many times in past Congresses. I have made some progress on the goals I seek but have not gotten 100 percent finality of the policies I want. I am always able to do this with a bipartisan piece of legislation.

Today, I present this with Senator JOHNSON of South Dakota. I will let Senator JOHNSON speak for himself, but I want to give the reasons I am introducing this bill in my remarks. First, I want people to know this deals with farm policy, and on farm policy the Senator from South Dakota, Mr. JOHNSON, and I agree on most everything.

Mr. President, this is a piece of legislation that is probably going to come up not so much as a stand-alone, as when we discuss the reauthorization of the farm bill—which generally could start this year and probably go into next year—but as an effort that I am not going to give up on. It deals with the issue of how much one individual farmer should get from the farm program. My approach is to put what one might call a hard cap on the amount of money that one farmer can get, and my remarks will explain why.

Also, though, at a time when we have great budget deficits, people might think I am introducing this bill just because I am concerned about the budget deficit. It is true this bill, if enacted, will save about $1.5 billion, but that is not my main purpose for doing it. My main purpose is to have the historical basis for a safety net for farmers; to espouse the principle that our safety net ought to be targeted toward small- and medium-sized farmers. So today, Senator JOHNSON and I are introducing the Rural America Preservation Act.

America's farmers produce the food that feed our families. The bill helps ensure that our farmers are able to provide a safe, abundant, and inexpensive food supply for consumers around the world while maintaining the safety net that allows small- and medium-sized farmers to get through tough times.

Everybody sees tough times that are out of their control, but the importance of the farm safety net can be seen no further than the dinner table each of us sits around, as recently as last night. Stop to think what you would do if you were unable to feed your children for 3 days. There is an old adage that says something like this: You are only nine meals away from a revolution. Maybe in those circumstances, if you love your children—and maybe you wouldn't think this could happen to you because we have such an abundance of food in America, but we are all aware of the fact a lot of countries do have food riots when there is a shortage of food—you might do just about anything—steal, riot, whatever it takes—to give your children the food you want them to have to keep them alive after not having food for 3 straight days.

So the cohesion within our society, the social cohesion, that is one of the reasons it is vitally important we maintain a farm program that will make sure there is a readily available food supply.

Another reason I am not going to go into in these remarks is that food is very essential to the national security of our country—in other words, the defense of our country. All we have to do is rely upon an old adage Napoleon used to use: An army marches on its belly. More recently, however, we can look at the farm programs in Germany and Japan where they recall the mistakes made in their war effort during World War II—and, thank God, they didn't succeed—when they did not have enough food for their military people. So I also want to think in terms of a sure supply of food not only for social cohesion but also for national security purposes.

To ensure the family farmer remains able to produce a food supply for this cohesive and stable society that I have talked about, we need to get the farm safety net back to its original intent—to help small- and medium-sized farmers get over the ups and downs of farming that are out of their control. As an example, it could be a natural disaster, it could be grain embargoes such as those put on by the President of the United States, it could be the situation where President Nixon froze the price of beef and ruined the beef industry in the Midwest.

The original intent of the Federal farm program was not to help a farmer get bigger and bigger. But the safety net has veered sharply off course, and that is why I talk about the necessity for a hard cap on any one farmer getting help from the farm program. We are now seeing 10 percent of the largest farmers actually getting nearly 70 percent of the total farm program payments coming out of the Treasury of the United States.

There is no problem with a farmer growing larger in his operation. Let me make that clear. If you want to get bigger and bigger in America, that is an American right to do so. But the taxpayers should not have to subsidize that effort, and that is what is happening today. There comes a point where some farms reach levels that allow them to weather the tough financial times on their own. Smaller farmers do not have that same luxury, and these same small farmers play a pivotal role in producing the Nation's food.

I have been approached time and time again by farmers concerned about where the next generation of farmers will come from when the price of farmland is shooting up or the price of cash rent is shooting up, particularly when the Federal taxpayers are subsidizing that effort. It is important that we keep young people on the farm so they can take the lead in producing our food when the older generation of farmers is ready to turn over the reins. But the current policies that allow 10 percent of the largest farmers to receive nearly 70 percent of the total farm program payments creates a real barrier for beginning and small farmers.

The current system puts upward pressure on land prices, making it more difficult for small and beginning farmers to buy a farm or to afford the cash rent. This allows the big farmers to get even bigger, and this is not unique to my State of Iowa. I am sure it is not unique to the State of South Dakota, where my cosponsor friend, Senator JOHNSON, comes from. This upward pressure on land prices is occurring in many States. It is simply good policy to have a hard cap on the amount a single farmer can receive in the farm program payments. We will keep in place a much needed safety net for the farmers who need it the most, and it will help reduce the negative impact farm payments can have on land prices and cash rent.

Our bill sets the overall cap at $250,000 for married couples. Now, people listening in the Senate, or people listening back home on television, probably think it is outrageous to have a figure that high and call it a hard cap. But this is something that is national policy and may not be applicable just to my State, so it is necessary to reach some sort of common ground in the Congress. I recognize that agriculture can look different around the country, so this is a compromise.

Just as important as setting the payment limits is the tightening of the meaning of ''actively engaged.'' I will not go in depth as to what actively engaged is about at this point, but it generally means, if you are a farmer, you ought to be a farmer and not a city slicker from New York City benefiting from the farm program. This will help make sure that farm payments only go to those who deserve them.

In light of the current budget discussions, everyone should agree that we don't want money going to those who fail to meet the criteria set for the program. This bill will help do that.

I hope my colleagues will agree this bill takes a common sense approach to improve our farm safety net, and a help to make sure the dollars spent go to those who need it most.

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

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

S. 1161

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural America Preservation Act of 2011''.

SEC. 2. PAYMENT LIMITATIONS.

Section 1001 of the Food Security of 1985 (7 U.S.C. 1308) is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) LEGAL ENTITY.—

''(A) IN GENERAL.—The term 'legal entity' means—

''(i) an organization that (subject to the requirements of this section and section 1001A) is eligible to receive a payment under a provision of law referred to in subsection (b), (c), or (d);

''(ii) a corporation, joint stock company, association, limited partnership, limited liability company, limited liability partnership, charitable organization, estate, irrevocable trust, grantor of a revocable trust, or other similar entity (as determined by the Secretary); and

''(iii) an organization that is participating in a farming operation as a partner in a general partnership or as a participant in a joint venture.

''(B) EXCLUSION.—The term 'legal entity' does not include a general partnership or joint venture.'';

(2) in subsection (b)—

(A) in paragraphs (1), (2), and (3), by striking ''(except a joint venture or a general partnership)'' each place it appears;

(B) in paragraph (1)(A), by striking ''$40,000'' and inserting ''$20,000''; and

(C) in paragraphs (2) and (3)(A), by striking ''$65,000'' each place it appears and inserting ''$30,000'';

(3) in subsection (c)—

(A) in paragraphs (1), (2), and (3), by striking ''(except a joint venture or a general partnership)'' each place it appears;

(B) in paragraph (1)(A), by striking ''$40,000'' and inserting ''$20,000''; and

(C) in paragraphs (2) and (3)(A), by striking ''$65,000'' each place it appears and inserting ''$30,000'';

(4) by striking subsection (d) and inserting the following:

''(d) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—The total amount of the following gains and payments that a person or legal entity may receive during any crop year may not exceed $75,000:

''(1)(A) Any gain realized by a producer from repaying a marketing assistance loan for 1 or more loan commodities and peanuts under subtitle B or C of title I of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8731 et seq.) at a lower level than the original loan rate established for the loan commodity under those subtitles.

''(B) In the case of settlement of a marketing assistance loan for 1 or more loan commodities and peanuts under those subtitles by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

''(2) Any loan deficiency payments received for 1 or more loan commodities and peanuts under those subtitles.

''(3) Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation for 1 or more loan commodities and peanuts, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under those subtitles or section 1307 of that Act (7 U.S.C. 7957).'';

(5) by redesignating subsections (e) through (h) as subsections (f) through (i), respectively;

(6) by inserting after subsection (d) the following:

''(e) SPOUSAL EQUITY.—

''(1) IN GENERAL.—Notwithstanding subsections (b) through (d), except as provided in paragraph (2), if a person and the spouse of the person are covered by paragraph (2) and receive, directly or indirectly, any payment or gain covered by this section, the total amount of payments or gains (as applicable) covered by this section that the person and spouse may jointly receive during any crop year may not exceed an amount equal to twice the applicable dollar amounts specified in subsections (b), (c), and (d).

''(2) EXCEPTIONS.—

''(A) SEPARATE FARMING OPERATIONS.—In the case of a married couple in which each spouse, before the marriage, was separately engaged in an unrelated farming operation, each spouse shall be treated as a separate person with respect to a farming operation brought into the marriage by a spouse, subject to the condition that the farming operation shall remain a separate farming operation, as determined by the Secretary.

''(B) ELECTION TO RECEIVE SEPARATE PAYMENTS.—A married couple may elect to receive payments separately in the name of each spouse if the total amount of payments and benefits described in subsections (b), (c), and (d) that the married couple receives, directly or indirectly, does not exceed an amount equal to twice the applicable dollar amounts specified in those subsections.'';

(7) in paragraph (3)(B) of subsection (g) (as redesignated by paragraph (5)), by adding at the end the following:

''(iii) IRREVOCABLE TRUSTS.—In promulgating regulations to define the term 'legal entity' as the term applies to irrevocable trusts, the Secretary shall ensure that irrevocable trusts are legitimate entities that have not been created for the purpose of avoiding a payment limitation.''; and

(8) in subsection (i) (as redesignated by paragraph (5)), in the second sentence, by striking ''or other entity'' and inserting ''or legal entity''.

SEC. 3. SUBSTANTIVE CHANGE; PAYMENTS LIMITED TO ACTIVE FARMERS.

The Food Security Act of 1985 is amended by striking section 1001A (7 U.S.C. 1308–1) and inserting the following:

''SEC. 1001A. SUBSTANTIVE CHANGE; PAYMENTS LIMITED TO ACTIVE FARMERS.

''(a) SUBSTANTIVE CHANGE.—

''(1) IN GENERAL.—For purposes of the application of limitations under this section, the Secretary shall not approve any change in a farming operation that otherwise would increase the number of persons or legal entities to which the limitations under this section apply, unless the Secretary determines that the change is bona fide and substantive.

''(2) FAMILY MEMBERS.—For the purpose of paragraph (1), the addition of a family member to a farming operation under the criteria established under subsection (b)(3)(B) shall be considered to be a bona fide and substantive change in the farming operation.

''(3) PRIMARY CONTROL.—To prevent a farm from reorganizing in a manner that is inconsistent with the purposes of this Act, the Secretary shall promulgate such regulations as the Secretary determines to be necessary to simultaneously attribute payments for a farming operation to more than 1 person or legal entity, including the person or legal entity that exercises primary control over the farming operation, including to respond to—

''(A)(i) any instance in which ownership of a farming operation is transferred to a person or legal entity under an arrangement that provides for the sale or exchange of any asset or ownership interest in 1 or more legal entities at less than fair market value; and

''(ii) the transferor is provided preferential rights to repurchase the asset or interest at less than fair market value; or

''(B) a sale or exchange of any asset or ownership interest in 1 or more legal entities under an arrangement under which rights to exercise control over the asset or interest are retained, directly or indirectly, by the transferor.

''(b) PAYMENTS LIMITED TO ACTIVE FARMERS.—

''(1) IN GENERAL.—To be eligible to receive, directly or indirectly, payments or benefits described as being subject to limitation in subsection (b) through (d) of section 1001 with respect to a particular farming operation, a person or legal entity shall be actively engaged in farming with respect to the farming operation, in accordance with paragraphs (2), (3), and (4).

''(2) GENERAL CLASSES ACTIVELY ENGAGED IN FARMING.—

''(A) DEFINITION OF ACTIVE PERSONAL MANAGEMENT.—In this paragraph, the term 'active personal management' means, with respect to a person, administrative duties carried out by the person for a farming operation—

''(i) that are personally provided by the person on a regular, continuous, and substantial basis; and

''(ii) relating to the supervision and direction of—

''(I) activities and labor involved in the farming operation; and

''(II) onsite services directly related and necessary to the farming operation.

''(B) ACTIVE ENGAGEMENT.—Except as provided in paragraph (3), for purposes of paragraph (1), the following shall apply:

''(i) A person shall be considered to be actively engaged in farming with respect to a farming operation if—

''(I) the person makes a significant contribution, as determined under subparagraph (E) (based on the total value of the farming operation), to the farming operation of—

''(aa) capital, equipment, or land; and

''(bb) personal labor and active personal management;

''(II) the share of the person of the profits or losses from the farming operation is commensurate with the contributions of the person to the operation; and

''(III) a contribution of the person is at risk.

''(ii) A legal entity shall be considered to be actively engaged in farming with respect to a farming operation if—

''(I) the legal entity makes a significant contribution, as determined under subparagraph (E) (based on the total value of the farming operation), to the farming operation of capital, equipment, or land;

''(II)(aa) the stockholders or members that collectively own at least 51 percent of the combined beneficial interest in the legal entity each make a significant contribution of personal labor and active personal management to the operation; or

''(bb) in the case of a legal entity in which all of the beneficial interests are held by family members, any stockholder or member (or household comprised of a stockholder or member and the spouse of the stockholder or member) who owns at least 10 percent of the beneficial interest in the legal entity makes a significant contribution of personal labor or active personal management; and

''(III) the legal entity meets the requirements of subclauses (II) and (III) of clause (i).

''(C) LEGAL ENTITIES MAKING SIGNIFICANT CONTRIBUTIONS.—If a general partnership,

joint venture, or similar entity (as determined by the Secretary) separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, the partners or members making a significant contribution of personal labor or active personal management and meeting the standards provided in subclauses (II) and (III) of subparagraph (B)(i) shall be considered to be actively engaged in farming with respect to the farming operation involved.

''(D) EQUIPMENT AND PERSONAL LABOR.—In making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

''(E) SIGNIFICANT CONTRIBUTION OF PERSONAL LABOR OR ACTIVE PERSONAL MANAGEMENT.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (B), a person shall be considered to be providing, on behalf of the person or a legal entity, a significant contribution of personal labor and active personal management, if the total contribution of personal labor and active personal management is at least equal to the lesser of—

''(I) 1,000 hours; and

''(II) a period of time equal to—

''(aa) 50 percent of the commensurate share of the total number of hours of personal labor and active personal management required to conduct the farming operation; or

''(bb) in the case of a stockholder or member (or household comprised of a stockholder or member and the spouse of the stockholder or member) that owns at least 10 percent of the beneficial interest in a legal entity in which all of the beneficial interests are held by family members who do not collectively receive payments directly or indirectly, including payments received by spouses, of more than twice the applicable limit, 50 percent of the commensurate share of hours of the personal labor and active personal management of all family members required to conduct the farming operation.

''(ii) MINIMUM LABOR HOURS.—For the purpose of clause (i), the minimum number of labor hours required to produce a commodity shall be equal to the number of hours that would be necessary to conduct a farming operation for the production of each commodity that is comparable in size to the commensurate share of a person or legal entity in the farming operation for the production of the commodity, based on the minimum number of hours per acre required to produce the commodity in the State in which the farming operation is located, as determined by the Secretary.

''(3) SPECIAL CLASSES ACTIVELY ENGAGED IN FARMING.—Notwithstanding paragraph (2), the following persons shall be considered to be actively engaged in farming with respect to a farm operation:

''(A) LANDOWNERS.—A person or legal entity that is a landowner contributing owned land, and that meets the requirements of subclauses (II) and (III) of paragraph (2)(B)(i), if, as determined by the Secretary—

''(i) the landowner share-rents the land at a rate that is usual and customary; and

''(ii) the share received by the landowner is commensurate with the share of the crop or income received as rent.

''(B) FAMILY MEMBERS.—With respect to a farming operation conducted by persons who are family members, or a legal entity the majority of the stockholders or members of which are family members, an adult family member who makes a significant contribution (based on the total value of the farming operation) of active personal management or personal labor and, with respect to such contribution, who meets the requirements of subclauses (II) and (III) of paragraph (2)(B)(i).

''(C) SHARECROPPERS.—A sharecropper who makes a significant contribution of personal labor to the farming operation and, with respect to such contribution, who meets the requirements of subclauses (II) and (III) of paragraph (2)(B)(i), and who was receiving payments from the landowner as a sharecropper prior to the effective date of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1651).

''(4) PERSONS AND LEGAL ENTITIES NOT ACTIVELY ENGAGED IN FARMING.—For the purposes of paragraph (1), except as provided in paragraph (3), the following persons and legal entities shall not be considered to be actively engaged in farming with respect to a farm operation:

''(A) LANDLORDS.—A landlord contributing land to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for such use of the land.

''(B) OTHER PERSONS AND LEGAL ENTITIES.—Any other person or legal entity, or class of persons or legal entities, that fails to meet the requirements of paragraphs (2) and (3), as determined by the Secretary.

''(5) PERSONAL LABOR AND ACTIVE PERSONAL MANAGEMENT.—No stockholder or member may provide personal labor or active personal management to meet the requirements of this subsection for persons or legal entities that collectively receive, directly or indirectly, an amount equal to more than twice the applicable limits under subsections (b), (c), and (d) of section 1001.

''(6) CUSTOM FARMING SERVICES.—A person or legal entity receiving custom farming services will be considered separately eligible for payment limitation purposes if the person or legal entity is actively engaged in farming based on paragraphs (1) through (3).

''(7) GROWERS OF HYBRID SEED.—To determine whether a person or legal entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

''(c) NOTIFICATION BY LEGAL ENTITIES.—To facilitate the administration of this section, each legal entity that receives payments or benefits described as being subject to limitation in subsection (b), (c), or (d) of section 1001 with respect to a particular farming operation shall—

''(1) notify each person or other legal entity that acquires or holds a beneficial interest in the farming operation of the requirements and limitations under this section; and

''(2) provide to the Secretary, at such times and in such manner as the Secretary may require, the name and social security number of each person, or the name and taxpayer identification number of each legal entity, that holds or acquires such a beneficial interest.''.

SEC. 4. FOREIGN PERSONS AND LEGAL ENTITIES MADE INELIGIBLE FOR PROGRAM BENEFITS.

Section 1001C of the Food Security Act of 1985 (7 U.S.C. 1308–3) is amended—

(1) in the section heading, by striking ''**PERSONS**'' and inserting ''**PERSONS AND LEGAL ENTITIES**'';

(2) in subsection (b)—

(A) in the subsection heading, by striking ''CORPORATION OR OTHER'' and inserting ''LEGAL'';

(B) in the first sentence, by striking ''a corporation or other entity shall be considered a person that'' and inserting ''a legal entity''; and

(C) in the second sentence, by striking ''an entity'' and inserting ''a legal entity''; and

(3) in subsection (c), by striking ''person'' and inserting ''legal entity or person''.

SEC. 5. REGULATIONS.

(a) IN GENERAL.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) PROCEDURE.—The promulgation of the regulations and administration of this Act and the amendments made by this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 6. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

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

S. 1165. A bill to protect children and other consumers against hazards associated with the accidental ingestion of button cell batteries by requiring the Consumer Product Safety Commission to promulgate consumer product safety standards to require child-resistant closures on remote controls and other consumer products that use such batteries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFFELLER. Mr. President, I rise to introduce the Button Cell Battery Safety Act of 2011. This bill will protect the most vulnerable members of our society from the hazards of button cell battery ingestion. These small batteries, which are present in more and more consumer products each year, can be deadly if swallowed. While most swallowed batteries pass harmlessly through the body, a toddler who puts one in her mouth can be severely injured in just two hours and the damage can be fatal after only eight hours.

Button cell batteries are small, round, and are approximately the size and shape of common coins. Just the sort of thing a curious child might put in his mouth. When ingested, these batteries can become lodged in the throat or elsewhere in the digestive system and cause permanent damage to the tissues.

Between 2007 and 2009, more than 3,400 button battery ingestion cases were reported to U.S. poison centers annually. The number of ingestions that result in serious injury or death

have increased sevenfold since 1985 due to the higher voltage of newer batteries. Hundreds of children have been severely injured and six have died from these ingestions in the last two years alone.

Despite the severe risk, most parents and caregivers remain unaware of the danger.

Imagine not realizing a child has swallowed one of these batteries. It gets lodged in the esophagus, begins to cause severe burns, and stays there for days with parents and doctors not realizing something is terribly wrong. It may seem like a respiratory infection, or a stomach virus. But it is not. It is the chemical reaction of a button cell battery, lodged in the esophagus. Even if the battery is removed within several hours, the damage is done. The child can end up in the intensive care unit for weeks, following hours of surgery. There can be permanent damage to the vocal cords, or to the gastrointestinal tract, meaning the child would require feeding tubes, home nursing care, and multiple surgeries. As severe and painstaking as this is for the child and for the parents, the child is fortunately given a second chance at life.

For a small number of the 3,400 cases of button cell battery ingestion reported to poison control centers every year, the damage from the battery proves to be fatal. Aidan Truett of Hamilton, Ohio, had a battery surgically removed after nine days of severe symptoms and doctor visits. The doctors found the battery when they ordered an X-ray, looking for pneumonia. Two days after his surgery, Aidan died from his injuries. He was 13 months old.

Two year old Elaina Redding, from Fort Lupton, CO died after the current from a swallowed battery set off a chemical reaction that eroded her esophagus and aorta. Four days after clutching her chest in pain, she was taken to the hospital and the battery was removed. Two weeks after being sent home, Elaina suffered a bloody coughing fit that sent her back to the intensive care unit where she bled to death.

These stories are horrifying and compel us to act. Small batteries which are in multiple products in our houses—in remote controls, toys, and musical greeting cards—are highly dangerous in the hands of toddlers who may swallow them. We have the ability to protect children and we must do so.

We need to make sure that these batteries are securely enclosed in products and cannot be removed by curious children. And we must also make sure that parents and caretakers are aware of the danger. No parent should leave batteries lying around the house after removing them from a product, or hand them to a small child.

This legislation would require the Consumer Product Safety Commission to promulgate a safety standard requiring child-resistant closures on consumer products that use these types of batteries. We already have Federal safety rules that require toys that use batteries to have such compartments; now it is time to make sure all products that utilize these particular batteries are secured in a manner that will reduce children's access to these potentially harmful batteries.

In addition, the legislation will require warning labels that alert adults of the danger of these batteries. Such labels will be required on the packaging for replacement batteries, in the user manual of products that use these batteries, and where appropriate, on the product itself. Too many injuries occur because batteries are left out and accessible after they have been replaced.

Today, I ask my colleagues to support this simple and straightforward bill that will save lives and prevent unnecessary injuries.

By Mrs. MURRAY (for herself, Mr. AKAKA, Mr. BLUMENTHAL, Mr. BROWN of Ohio, Mr. FRANKEN, Mr. HARKIN, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mrs. SHAHEEN, and Mr. WHITEHOUSE):

S. 1166. A bill to amend the Occupational Safety and Health Act of 1970 to expand coverage under the Act, to increase protections for whistleblowers, to increase penalties for high gravity violations, to adjust penalties for inflation, to provide rights for victims of family members, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, I come to the floor today to talk about our obligation to protect workers across America and to urge my colleagues to support the Protecting America's Workers Act, which I am very proud to introduce today.

Mr. President, middle-class families across this country are struggling. So many of them have lost their homes or their jobs and are fighting to keep their heads above water. We are working hard here to create jobs and get the economy back on track, but we also owe it to middle-class families to make sure those jobs are safe and healthy.

In 2009 alone there were 4,340 deaths in workplaces across America, and over 3 million more were injured or sickened while on the job. If more than 4,000 Americans were killed in 1 day, it would be on the front page of every newspaper in this country. If an epidemic in this country claimed 4,000 lives, it would lead the nightly news each week. But that is not the way it works with workplace injuries. They happen a few at a time, spread out across the country, in communities such as Anacortes in my home State of Washington, where a fire broke out last year at the Tesoro Refinery and killed seven workers.

These were men and women who were taken too young, with so much life to live and with so many people to live it with; workers who took on tough jobs and worked long hours during difficult economic times to provide for their families. They were people who made tremendous sacrifices and who embodied so much of what is good about their communities and their States. They have been dearly missed.

Washington State investigators looked into that incident and determined that the tragedy could have been and should have been prevented. The problems that led to what happened were known beforehand. They should have been fixed, but they weren't. That is heartbreaking.

Every worker in every industry deserves to be confident that while they are working hard and doing their jobs, their employers are doing everything they can to protect them. That is why I am proud to reintroduce the Protecting America's Workers Act. This legislation is a long overdue update to the Occupational Safety and Health Act of 1970, or the OSH Act.

Since that groundbreaking law was passed over 40 years ago, we know American industry has changed significantly. Businesses and workplaces have become much more complex, and workers are performing 21st-century tasks, but the government is still using a 1970 approach to regulations to protect employees. It doesn't make sense, and it needs to change.

We need to update the way we as a country think about our worker safety regulations, and this law is a very important step in that direction. This is not about adding more regulations, it is about having smarter regulations. It is about having regulations that protect workers and make sense for business.

Mr. President, the Protecting America's Workers Act makes a number of key improvements to the OSH Act, but I want to highlight just a few.

First of all, it increases protections for workers who blow the whistle on unsafe working conditions. Protecting workers who tell the truth is just common sense. In fact, in other modern laws, such as the Consumer Product Safety Improvement Act of 2008 and the Food Safety Modernization Act of 2010, they do exactly that. But since the OSH Act has not been updated, the vast majority of workers today don't have similar protections.

An important part of my bill would make sure a whistleblower's right to protection from retaliation cannot be waived through collective bargaining agreements, and they have the option to appeal to the Federal courts if they believe they are being mistreated for telling the truth about dangerous practices.

The Protecting America's Workers Act also improves reporting, inspection, and other enforcement of workplace health and safety violations. It expands the rights of the victims and makes sure employers who oversee unsafe workplaces are pushed to quickly improve them to avoid further endangering worker health and safety.

This is a good bill. I am proud to have a number of cosponsors in the Senate, as well as the support of many prominent national groups in our efforts to improve workplace safety.

Nothing can bring back the workers we lost in communities such as Anacortes, but we certainly owe it to them to make sure workers everywhere are truly protected on the job. So I urge my colleagues to support the Protecting America's Workers Act and to keep working with us to make workplaces safer and healthier across America.

By Mr. JOHNSON of South Dakota (for himself and Mr. BINGAMAN):

S. 1167. A bill to amend the Public Health Service Act to improve the diagnosis and treatment of hereditary hemorrhagic telangiectasia, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. JOHNSON of South Dakota. Mr. President, today I join with my colleague and friend from Iowa, CHUCK GRASSLEY, in introducing the Rural America Preservation Act of 2011, which will provide for common-sense, meaningful farm program payment limitations. Particularly given our country's budgetary constraints, this is a straight-forward and fiscally responsible proposal that would target our farm program payments and safety net.

The current farm program payment structure has, quite frankly, failed rural America. According to the United States Department of Agriculture's Economic Research Service, in 2008, the largest 12.4 percent of farms received 62.4 percent of farm program payments. The current rules permit the most capitalized farming corporations to receive massive subsidies and deprive small and medium-sized family farmers of the opportunity to thrive. The farm bill is intended to provide programs that function as a safety net for farmers, in contrast to the cash cow they've become for a few producers. It is important that we maintain a safety net for producers, but such a system must be targeted to family farmers instead of large agribusinesses.

The 2008 farm bill took some important first steps in strengthening the integrity of our farm programs. Under the law, anyone making more than $500,000 in non-farm Adjusted Gross Income will not receive farm payments and producers making over $750,000 AGI will lose their direct payments. Additionally, the law eliminates the triple-entity loophole and farm payments now go directly to an individual, rather than a corporation or general partnership, through direct attribution. I support direct attribution and elimination of the triple-entity loophole; however, I believe these provisions should have been much stronger and I have consistently pressed for a hard payment cap of at least $250,000. The bill we introduced today would finally provide for meaningful payment limitations and ensure that assistance goes to small and medium-sized family farms.

Our legislation includes several specific limits. Direct payments would be capped at $20,000 per producer and counter-cyclical payments would be limited to $30,000. Additionally, the bill would establish a cap of $75,000 on loan deficiency payments, LDPs, and marketing loan gains. There is currently no cap on LDPs and marketing loan gains, essentially meaning there is no effective payment limitation.

Just as important as establishing a hard payment limitations cap is how we define whether an individual is actively engaged in the operation of a farm. Current law lacks a defined active management test, and therefore someone could participate in no more than a yearly conference call and be eligible to receive payments. Our bill closes the management loophole which has allowed ''paper partners'' to collect payments without contributing any real or meaningful role in the operation. This proposal will improve the management standards determining payment eligibility by requiring that management be provided on a regular, substantial, and continuous basis through direct supervision and direction of the operations of the farm. These are reasonable and common-sense requirements which seek to further ensure the integrity of the farm safety net.

Agriculture is the economic engine that drives our rural communities, and without viable family farmers, our small towns and Main Street businesses throughout South Dakota would face significant financial hardships. I am proud to join with my friend from Iowa, Senator GRASSLEY, who has also been a longtime champion of family farmers, in introducing this important legislation.

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

S. 1173. A bill to amend title XVIII of the Social Security Act to modernize payments for ambulatory surgical centers under the Medicare program; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise today, once again, to advocate for patients and their access to more choice and competition in providing good quality health care by introducing The Ambulatory Surgical Center Quality and Access Act of 2011 with my colleague, Senator CRAPO.

Advocates for health care reform and a healthier nation continue to emphasize the importance of keeping patients ''out of the hospital.'' ASCs can help do that by providing cost-effective services in an outpatient setting.

There are more than 5,200 Medicare-certified ASCs across all 50 States, with 83 in Oregon alone. These facilities, that employ the equivalent of 117,700 full-time workers nationwide, ensure that patients from Portland to Hermiston, from Klamath Falls to Coos Bay, have access to safe, effective, and quality surgical care.

But ASCs can do more than provide the same services found in a Hospital Outpatient Department; they can do it at lower cost. Medicare saves an estimated $3 billion each year when surgical procedures are performed in ASCs rather than hospitals due to ASC reimbursement equaling 56 percent of what a hospital receives.

Currently, Medicare uses two different factors to update reimbursement: one for ASCs and a different one for hospitals. ASC payments are updated based on the consumer price index, while hospital rates are updated using the hospital market basket, which specifically measures changes in the costs of providing health care. Both facilities can provide identical surgical procedures, so why aren't their respective reimbursements linked to the same update mechanism? Why should there be a double standard?

This inequity could have significant consequences for both patients' access to services and Medicare's rate of outpatient expenditures if facilities begin consolidating or hospitals begin acquiring these practices in an attempt to reimburse for the same services at a higher rate—and cost to the taxpayer.

The legislation Senator CRAPO and I have introduced today, however, begins to address this in two ways: First, this bill creates parity by allowing ASC payment rates to be updated using the same market basket update hospitals use; and second, the bill goes a step further by establishing a Value-Based Purchasing program which will dispense shared savings payments based on quality reporting and improved performance.

The Ambulatory Surgical Center Quality and Access Act puts common-sense policies in place that will enhance patients' access to quality care in a cost-effective way. I urge my colleagues to join us in cosponsoring this important legislation.

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

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

S. 1173

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 ''Ambulatory Surgical Center Quality and Access Act of 2011''.

SEC. 2. ALIGNING UPDATES FOR AMBULATORY SURGICAL CENTER SERVICES WITH UPDATES FOR OPD SERVICES.

Section 1833(i)(2)(D) of the Social Security Act (42 U.S.C. 13951(i)) is amended—

(1) by redesignating clause (vi) as clause (vii);

(2) in the first sentence of clause (v), by inserting before the period the following: ''and, in the case of 2012 or a subsequent year, by the adjustment described in subsection (t)(3)(G) for the respective year''; and

(3) by inserting after clause (v) the following new clause:

''(vi) In implementing the system described in clause (i) for 2012 and each subsequent year, there shall be an annual update under such system for the year equal to the OPD fee schedule increase factor specified under subsection (t)(3)(C)(iv) for such year, adjusted in accordance with clauses (iv) and (v).''.

SEC. 3. IMPROVING ASC QUALITY MEASURE REPORTING AND APPLYING VALUE-BASED PURCHASING TO ASCS.

(a) QUALITY MEASURES.—Paragraph (7) of section 1833(i) of the Social Security Act (42 U.S.C. 1395l(i)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence, by inserting ''(beginning with 2014)'' after ''with respect to a year''; and

(B) by adding at the end the following: ''Data required to be submitted on measures selected under this paragraph must be on measures that have been selected by the Secretary after consideration of public comments and in accordance with the process described in subparagraph (B). Such measures may include healthcare acquired infection measures appropriate for ambulatory surgery centers, prophylactic IV antibiotic timing, and patient falls. Ambulatory surgical centers determined by the Secretary to furnish a minimal number of items and services under this title with respect to a year shall not be subject to a reduction under this subparagraph for such year.'';

(2) in subparagraph (B)—

(A) by striking ''Except as the Secretary may otherwise provide, the'' and inserting ''Except as provided in the subsequent sentence, the''; and

(B) by adding at the end the following: ''In carrying out the previous sentence, the Secretary shall—

''(i) ensure that measures meet the definition and process for identifying quality measures under subsections (a) and (b) of section 931 of the Public Health Service Act;

''(ii) ensure that measures are developed, selected, and modified in accordance with the development, selection, and modification processes for measures established under section 1890A and in accordance with section 1890;

''(iii) ensure that measures are selected, and a data submission process is implemented, under this paragraph in a manner that ensures ambulatory surgical centers are able to voluntarily submit data under this paragraph not later than January 1, 2013;

''(iv) make available an infrastructure which will allow ambulatory surgery centers to submit data on such measures through electronic and other means;

''(v) ensure that the form and manner of submissions under this paragraph by ambulatory surgical centers shall include the option of submitting data with claims for payment under this part;

''(vi) ensure that a mechanism is developed to allow an ambulatory surgical center to attest that the center did not furnish services applicable to selected measures for use under the Program established under paragraph (8); and

''(vii) establish and have in place, by not later than June 30, 2013, an informal process for ambulatory surgery centers to seek a review of and appeal the determination that an ambulatory surgical center did not satisfactorily submit data on quality measures.''; and

(3) by adding at the end the following new subparagraphs:

''(C) To the extent that quality measures implemented by the Secretary under this paragraph for ambulatory surgical centers and under section 1833(t)(17) for hospital outpatient departments are applicable to the provision of surgical services in both ambulatory surgical centers and hospital outpatient departments, the Secretary shall—

''(i) require that both ambulatory surgical centers and hospital outpatient departments report data on such measures; and

''(ii) make reported data available on the website 'Medicare.gov' in a manner that will permit side-by-side comparisons on such measures for ambulatory surgical centers and hospital outpatient departments in the same geographic area.

''(D) For each procedure covered for payment in an ambulatory surgical center, the Secretary shall publish, along with the quality reporting comparisons provided for in subparagraph (C), comparisons of the Medicare payment and beneficiary copayment amounts for the procedure when performed in ambulatory surgical centers and hospital outpatient departments in the same geographic area.

''(E) The Secretary shall ensure that an ambulatory surgery center and a hospital has the opportunity to review, and submit any corrections for, the data to be made public with respect to the ambulatory surgery center under subparagraph (C)(ii) prior to such data being made public.''.

(b) AMBULATORY SURGICAL CENTER VALUE-BASED PURCHASING PROGRAM.—Section 1833(i) is amended by adding at the end the following new paragraph:

''(8) VALUE-BASED PURCHASING PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary shall establish an ambulatory surgical center value-based purchasing program (in this subsection referred to as the 'Program') under which, subject to subparagraph (I), each ambulatory surgical center that the Secretary determines meets (or exceeds) the performance standards under subparagraph (D) for the performance period (as established under subparagraph (E)) for a calendar year is eligible, from the amounts made available in the total shared savings pool under subparagraph (I)(iv), for shared savings under subparagraph (I), which shall be in the form, after application of the adjustments under clauses (iv), (v), and (vi) of paragraph (2)(D), of an increase in the amount of payment determined under the payment system under paragraph (2)(D) for surgical services furnished by such center during the subsequent year, by the value-based percentage amount under subparagraph (H) specified by the Secretary for such center and year.

''(B) PROGRAM START DATE.—The Program shall apply to payments for procedures occurring on or after January 1, 2015.

''(C) MEASURES.—

''(i) IN GENERAL.—For purposes of the Program, the Secretary shall select measures from the measures specified under paragraph (7).

''(ii) AVAILABILITY OF MEASURE AND DATA.—The Secretary may not select a measure under this paragraph for use under the Program with respect to a performance period for a calendar year unless such measure has been included, and the reported data available, on the website 'Medicare.gov', for at least 1 year prior to the beginning of such performance period.

''(iii) MEASURE NOT APPLICABLE UNLESS ASC FURNISHES SERVICES APPROPRIATE TO MEASURE.—A measure selected under this paragraph for use under the Program shall not apply to an ambulatory surgical center if such center does not furnish services appropriate to such measure.

''(D) PERFORMANCE STANDARDS.—

''(i) ESTABLISHMENT.—The Secretary shall establish performance standards with respect to measures selected under subparagraph (C)(i) for a performance period for a calendar year.

''(ii) ACHIEVEMENT AND IMPROVEMENT.—The performance standards established under clause (i) shall include levels of achievement and improvement.

''(iii) TIMING.—The Secretary shall establish and announce the performance standards under clause (i) not later than 60 days prior to the beginning of the performance period for the calendar year involved.

''(E) PERFORMANCE PERIOD.—For purposes of the Program, the Secretary shall establish the performance period for a calendar year. Such performance period shall begin and end prior to the beginning of such calendar year.

''(F) ASC PERFORMANCE SCORE.—The Secretary shall develop a methodology for assessing the total performance of each ambulatory surgery center based on performance standards with respect to the measures selected under subparagraph (C) for a performance period (as established under subparagraph (E)). Using such methodology, the Secretary shall provide for an assessment (in this subsection referred to as the 'ASC performance score') for each ambulatory surgical center for each performance period. The methodology shall provide that the ASC performance score is determined using the higher of its achievement or improvement score for each measure.

''(G) APPEALS.—The Secretary shall establish a process by which ambulatory surgery centers may appeal the calculation of the ambulatory surgery center's performance with respect to the performance standards established under subparagraph (D) and the ambulatory surgery center performance score under subparagraph (E). The Secretary shall ensure that such process provides for resolution of appeals in a timely manner.

''(H) CALCULATION OF VALUE-BASED INCENTIVE PAYMENT.—

''(i) VALUE-BASED PERCENTAGE AMOUNT.—For purposes of subparagraph (A), the Secretary shall specify a value-based percentage amount for an ambulatory surgical center for a calendar year.

''(ii) REQUIREMENTS.—In specifying the value-based percentage amount for each ambulatory surgical center for a calendar year under clause (i), the Secretary shall ensure that such percentage is based on—

''(I) the ASC performance score of the ambulatory surgery center under subparagraph (F); and

''(II) the amount of the total savings pool made available under subparagraph (I)(iii)(I) for such year.

''(I) ANNUAL CALCULATION OF SHARED SAVINGS FUNDING FOR VALUE-BASED INCENTIVE PAYMENTS.—

''(i) DETERMINING BONUS POOL.—In each year of the Program, ambulatory surgery centers shall be eligible to receive payment for shared savings under the Program only if for such year the sum of—

''(I) the estimated amount of expenditures under this title for Medicare fee-for-service beneficiaries (as defined in section 1899(h)(3)) for surgical services for which payment is made under the payment system under paragraph (2), adjusted for beneficiary characteristics, and

''(II) the estimated amount of expenditures under this title for Medicare fee-for-service beneficiaries (as so defined) for the same surgical services for which payment is made under the prospective payment system under subsection (t), adjusted for beneficiary characteristics,

is at least the percent specified by the Secretary below the applicable benchmark determined for such year under clause (ii). For purposes of this subparagraph, such sum shall be referred to as 'estimated expenditures'. The Secretary shall determine the appropriate percent described in the preceding sentence to account for normal variation in volume of services under this title and to account for changes in the coverage of services

in ambulatory surgery centers and hospital outpatient departments during the performance period involved.

''(ii) ESTABLISH AND UPDATE BENCHMARK.—For purposes of clause (i), the Secretary shall calculate a benchmark for each year described in such clause equal to the product of—

''(I) estimated expenditures described in clause (i) for such year, and

''(II) the average annual growth in estimated expenditures for the most recent three years.

Such benchmark shall be reset at the start of each calendar year, and adjusted for changes in enrollment under the Medicare fee-for-service program.

''(iii) PAYMENTS BASED ON SHARED SAVINGS.—If the requirement under clause (i) is met for a year—

''(I) 50 percent of the total savings pool estimated under clause (iv) for such year shall be made available for shared savings to be paid to ambulatory surgical centers under this paragraph;

''(II) a percent (as determined appropriate by the Secretary, in accordance with subparagraph (H)) of such amount made available for such year shall be paid as shared savings to each ambulatory surgery center that is determined under the Program to have met or exceeded performance scores for such year; and

''(III) all funds made available under subclause (I) for such year shall be used and paid as sharing savings for such year in accordance with subclause (II).

''(iv) ESTIMATE OF THE TOTAL SAVINGS POOL.—For purposes of clause (iii), the Secretary shall estimate for each year of the Program the total savings pool as the product of—

''(I) the conversion factor for such year determined by the Secretary under the payment system under paragraph (2)(D) divided by the conversion factor calculated under subsection (t)(3)(C) for such year for covered OPD services, multiplied by 100, and

''(II)(aa) the product of the estimated Medicare expenditures for surgical services described in clause (i)(I) furnished during such year to Medicare fee-for-service beneficiaries (as defined in section 1899(h)(3)) for which payment is made under subsection (t) and the average annual growth in the estimated Medicare expenditures for such services furnished to Medicare fee-for-service beneficiaries (as so defined) for which payment is made under subsection (t) in the most recent available 3 years, less

''(bb) the estimated Medicare expenditures for surgical services described in clause (i)(I) furnished to Medicare fee-for-service beneficiaries for which payment was made under subsection (t) in the most recent year.

''(J) NO EFFECT IN SUBSEQUENT CALENDAR YEARS.—The value-based percentage amount under subparagraph (H) and the percent determined under subparagraph (I)(iii)(I) shall apply only with respect to the calendar year involved, and the Secretary shall not take into account such amount or percentage in making payments to an ambulatory surgery center under this section in a subsequent calendar year.''.

SEC. 4. APC PANEL REPRESENTATION.

(a) ASC REPRESENTATIVE.—The second sentence of section 1833(t)(9)(A) of the Social Security Act (42 U.S.C. 1395l(t)(9)(A)) is amended by inserting ''and suppliers subject to the prospective payment system (including at least one ambulatory surgical center representative)'' after ''an appropriate selection of representatives of providers''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5. ENSURING ACCESS TO SAME DAY SERVICES.

The conditions for coverage of ambulatory surgical center services specified by the Secretary of Health and Human Services pursuant to section 1832(a)(2)(F)(i) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F)(i)) shall not prohibit ambulatory surgical centers from providing individuals with any notice of rights or other required notice on the date of a procedure if more advance notice is not feasible under the circumstances, including when a procedure is scheduled and performed on the same day.

By Ms. LANDRIEU (for herself, Mr. GRAHAM, Mr. AKAKA, Mr. BEGICH, Mr. BROWN of Massachusetts, Mr. CARPER, Ms. COLLINS, Mrs. GILLIBRAND, Mr. KIRK, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. MENENDEZ, Ms. MIKULSKI, Mr. SANDERS, and Mr. SCHUMER):

S. 1176. A bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, today I join my colleagues in introducing the American Horse Slaughter Prevention Act. This bill will prohibit the slaughter of horses for human consumption, a practice that the majority of Americans oppose and of which many are unaware. The last American horse slaughterhouses were closed in 2007, and there is virtually no demand for horse meat for human consumption in the United States. Unfortunately, tens of thousands of American horses are still being inhumanely transported to foreign processing plants, where they are brutally slaughtered.

Horses are domestic animals that have served men and women as loyal, hard working companions for thousands of years; and today, they are used primarily for recreation, pleasure, and sport. Horses differ from other livestock animals in that we do not raise them for the purpose of slaughter. We raise and train them to trust us, perform for us, and allow us on their backs. As such, they are entitled to a sense of human compassion, of which the practice of horse slaughter is void.

Throughout the development of this country, human consumption of horse meat has not been a widely accepted activity. This is undoubtedly due to the unique relationship enjoyed between mankind and horses for thousands of years. Horses were there in our work, on our farms, for transportation and communication in the taming of a vast American Frontier, and on every battlefield prior to World War II. They have proven their loyalty and nobility, and without them, the development of our country might not have been possible and at the least, would have been significantly more difficult. In modern time, horses provide joy and entertainment. Through racing, jumping, recreation, and even therapy to the disabled, horses touch the lives of many Americans. Clearly, they hold a special place in our culture, and it is for these reasons, that so many people are strongly opposed to horse slaughter in America.

Unfortunately, horse owners do have to face the realities of infirmity, age, or other reasons that may necessitate putting down their animal. However, this calls for humane euthanasia, and slaughter is simply not an appropriate alternative. The average cost for humane euthanasia and disposal is about the same as the cost of one month's care, so it is not unreasonable to expect horse owners to accept responsibility and incur this minor expense.

Additionally, because we do not raise horses with the intent to slaughter for human consumption, they are frequently treated with drugs not approved for use in animals raised for human consumption. These drugs can be toxic when ingested by humans. We have no system in the United States to track which medications a horse has received throughout its lifetime, and as such, American horse meat poses a food safety and export risk.

It is for all of these reasons that I am committed to ensuring that this bill is brought to the attention of all of our colleagues here in the Senate. I look forward to working with the senior Senator from South Carolina and others to address this important issue and pass a commonsense bill that reflects the desires of many of our constituents, who support the humane treatment of our horses and the prohibition of their slaughter for humane consumption.

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

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

S. 1176

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 ''American Horse Slaughter Prevention Act of 2011''.

SEC. 2. PROHIBITION ON SHIPPING, TRANSPORTING, MOVING, DELIVERING, RECEIVING, POSSESSING, PURCHASING, SELLING, OR DONATION OF HORSES AND OTHER EQUINES FOR SLAUGHTER FOR HUMAN CONSUMPTION.

(a) DEFINITIONS.—Section 2 of the Horse Protection Act (15 U.S.C. 1821) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (5), and (6), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) The term 'human consumption' means ingestion by people as a source of food.''; and

(3) by inserting after paragraph (3) (as redesignated by paragraph (1)) the following:

''(4) The term 'slaughter' means the killing of 1 or more horses or other equines with the intent to sell or trade the flesh for human consumption.''.

(b) FINDINGS.—Section 3 of the Horse Protection Act (15 U.S.C. 1822) is amended—

(1) by redesignating paragraphs (1) through (5) as paragraphs (6) through (10), respectively;

(2) by adding before paragraph (6) (as redesignated by paragraph (1)) the following:

''(1) horses and other equines play a vital role in the collective experience of the United States and deserve protection and compassion;

''(2) horses and other equines are domestic animals that are used primarily for recreation, pleasure, and sport;

''(3) unlike cows, pigs, and many other animals, horses and other equines are not raised for the purpose of being slaughtered for human consumption;

''(4) individuals selling horses or other equines at auctions are seldom aware that the animals may be bought for the purpose of being slaughtered for human consumption;

''(5) the Animal and Plant Health Inspection Service of the Department of Agriculture has found that horses and other equines cannot be safely and humanely transported in double deck trailers;''; and

(3) by striking paragraph (8) (as redesignated by paragraph (1)) and inserting the following:

''(8) the movement, showing, exhibition, or sale of sore horses in intrastate commerce, and the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation in intrastate commerce of horses and other equines to be slaughtered for human consumption, adversely affect and burden interstate and foreign commerce;''.

(c) PROHIBITION.—Section 5 of the Horse Protection Act (15 U.S.C. 1824) is amended—

(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively; and

(2) by inserting after paragraph 7 the following:

''(8) The shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of any horse or other equine to be slaughtered for human consumption.''.

(d) AUTHORITY TO DETAIN.—Section 6(e) of the Horse Protection Act (15 U.S.C. 1825(e)) is amended—

(1) by striking the first sentence of paragraph (1);

(2) by redesignating paragraphs (1) and (2) and as paragraphs (2) and (3), respectively; and

(3) by inserting before paragraph (2) (as redesignated by paragraph (2)) the following:

''(1) The Secretary may detain for examination, testing, or the taking of evidence—

''(A) any horse at any horse show, horse exhibition, or horse sale or auction that is sore or that the Secretary has probable cause to believe is sore; and

''(B) any horse or other equine that the Secretary has probable cause to believe is being shipped, transported, moved, delivered, received, possessed, purchased, sold, or donated in violation of section 5(8).''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 12 of the Horse Protection Act (15 U.S.C. 1831) is amended by striking ''$500,000'' and inserting ''$5,000,000''.

By Mr. BINGAMAN:

S. 1177. A bill to provide grants to States to improve high schools and raise graduation rates while ensuring rigorous standards, to develop and implement effective school models for struggling students and dropouts, and to improve State policies to raise graduation rates, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce a series of education bills S. 1177, S. 1178, and S. 1179, that reflect many of my legislative priorities in K–12 education policy and the reauthorization of the Elementary and Secondary Education Act. As Chairman HARKIN, Ranking Member ENZI, and my Senate colleagues on the Health, Education, Labor and Pensions Committee continue negotiations on the reauthorization of ESEA, I feel that it is appropriate to introduce legislation that I have developed for inclusion in the reauthorized legislation. While the bills I have introduced today do not address all of the many changes that I feel are necessary to fix No Child Left Behind, they do emphasize areas of particular and longstanding concern to me and my constituents.

I strongly believe that there must be a continued federal role in education in the United States. I have great respect for State and local school officials, and as such I believe that they continue to require Federal support to improve student achievement and improve graduation rates. Given the severe education funding challenges in my home State of New Mexico and across the country, Congress has a particular obligation to retain its focus on student achievement, especially among low-income and disadvantaged youth.

Federal education policy should prioritize ending the nationwide high school dropout crisis; supporting the effective use of education technology, especially in high-poverty schools; ensuring that students benefit from high expectations, rigorous standards and curriculum; and extending the school day, week, and/or year to ensure that U.S. students do not continue to fall behind our global competitors.

Each year in the United States, approximately 1.2 million students drop out of school without receiving a diploma, at an estimated annual cost to the country of over $300 billion. My home State of New Mexico has one of the lowest statewide graduation rates in the country. The Graduation Promise Act, which I am introducing today, authorizes a new Federal focus on helping underperforming high schools improve student achievement and increase graduation rates.

The Federal Government should support teachers using the most up-to-date technology to prepare students for success in college and 21st century careers. Today, I reintroduced the Achievement Through Technology and Innovation Act of 2011. This bill would renew and strengthen the existing education technology program in ESEA. The ATTAIN Act recognizes that learning technologies are critical to preparing students for the 21st century workforce, ensuring high quality teaching, and improving the productivity of our Nation's educational system. The Act would provide Federal funds to states and local school districts to train teachers, purchase education technology hardware and software, and support innovative learning methods and student technological literacy.

All students, regardless of their income levels, should be able to benefit from high expectations, high academic standards, and college-level academic opportunities. The Advanced Programs Act of 2011 would renew the current ESEA program, which provides Federal funding to pay low-income students' AP exam fees and incentive grants to expand student access to AP courses and exams.

Finally, I wish to highlight my cosponsorship of the Time for Innovation Matters in Education Act, which Chairman HARKIN introduced on April 14th of this year. The TIME Act authorizes Federal funding to support expanded learning time, ELT, initiatives in public schools. American students spend about 30 percent less time in school than students in other leading nations, which hinders our students' ability to succeed and compete. ELT programs typically provide extra time for academic student, enrichment activities, and teacher collaboration. Studies show that programs that significantly increase the total number of hours in a regular school schedule can lead to gains in academic achievement, particularly for students who are furthest behind.

Taken together, these four bills present a coherent, consistent vision for the Federal role in education reform. We must turn around struggling high schools and improve our high school graduation rates. We must use the best technology available to provide solid instruction and develop the student technological literacy necessary for success in the digital age. We must provide all students with access to high standards and college-level academic opportunities. We must support schools adding the school time necessary to allow our students to keep pace with students in high-performing countries.

Now is not the time for the Federal Government to back away from its commitment to helping disadvantaged students succeed in school and in life. While the Elementary and Secondary Education Act needs to be reconsidered and substantially reworked, we must not roll back Federal policy and ignore the persistent achievement gaps that limit our national competitiveness and deny millions of our children access to the American dream.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 23—DECLARING THAT IT IS THE POLICY OF THE UNITED STATES TO SUPPORT AND FACILITATE ISRAEL IN MAINTAINING DEFENSIBLE BORDERS AND THAT IT IS CONTRARY TO UNITED STATES POLICY AND NATIONAL SECURITY TO HAVE THE BORDERS OF ISRAEL RETURN TO THE ARMISTICE LINES THAT EXISTED ON JUNE 4, 1967

Mr. HATCH (for himself, Mr. LIEBERMAN, Mr. RUBIO, Mr. NELSON of Nebraska, Mr. JOHANNS, Mr. WYDEN, Mr. MORAN, Mr. TOOMEY, Mr. INHOFE, Mr. BARRASSO, Mr. KIRK, Mr. BURR, Mr. CORNYN, Mr. KYL, Mr. THUNE, Mr. PORTMAN, Mr. COATS, Mr. COBURN, Ms. AYOTTE, Mr. BOOZMAN, Mr. BLUNT, Mr. BROWN of Massachusetts, Mr. VITTER, Mr. ROBERTS, Mr. ENZI, Mr. ISAKSON, Ms. MURKOWSKI, Mr. WICKER, Mr. LUGAR, and Mr. CHAMBLISS) submitted the following concurrent resolution; which was referred to the committee on Foreign Relations:

S. CON. RES. 23

Whereas, throughout its short history, Israel, a liberal democratic ally of the United States, has been repeatedly attacked by authoritarian regimes and terrorist organizations that denied its right to exist;

Whereas the United States Government remains steadfastly committed to the security of Israel, especially its ability to maintain secure, recognized, and defensible borders;

Whereas the United States Government is resolutely bound to its policy of preserving and strengthening the capability of Israel to deter enemies and defend itself against any threat;

Whereas United Nations Security Council Resolution 242 (1967) recognized Israel's ''right to live in peace within secure and recognized boundaries free from threats or acts of force'';

Whereas the United States has long recognized that a return to the 1967 lines would create a strategic military vulnerability for Israel and greatly impede its sovereign right to defend its borders; and

Whereas Prime Minister of Israel Benjamin Netanyahu correctly stated on May 20, 2011, that the 1967 lines were not ''boundaries of peace. They are the boundaries of repeated war'': Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the policy of the United States to support and facilitate Israel in creating and maintaining secure, recognized, and defensible borders; and

(2) it is contrary to United States policy and our national security to have the borders of Israel return to the armistice lines that existed on June 4, 1967.

Mr. HATCH. Mr. President, today I am pleased to rise and offer, with my good friend, the senior Senator from Connecticut, a concurrent resolution which reaffirms our Nation's steadfast and unshakable commitment to the security of Israel, specifically through the establishment of secure, recognized, and defensible borders.

It is unfortunate that I am compelled to offer such a resolution. For years, both Republican and Democratic administrations have recognized that Israel's boundaries of June 4, 1967 are indefensible and if reestablished will create a strategic military vulnerability for our staunch ally.

That is why President Obama's recent comments were so dumbfounding. The President's prepared and thoroughly considered remarks called for the starting point of negotiations to be what we all know are the militarily indefensible 1967 lines.

Remember, if Israel returns to the 1967 lines its territory will, in some locations, be only 9 miles wide.

As Prime Minister Benjamin Netanyahu correctly stated in a friendly and appropriate correction to the President's remarks, the 1967 lines are not boundaries of peace. They are boundaries of repeated war.

Israel would have to give up the Golan Heights, the strategic elevated location which dominates northern Israel. Does the President not remember during the 1973 War the Syrians launched a massive armored attack on the Golan Heights which almost succeeded?

This raises the question of who President Obama was attempting to appease with his ill-advised statements, which unnecessarily drove a wedge between the United States and Israel?

The fact is the national security interests of the United States and Israel are linked. The threats Israel faces are the threats the United States faces. Whether it is Hezbollah in Lebanon, Hamas in the Gaza Strip or these groups' benefactor, Iran, we share a common foe.

Unfortunately, that foe, Iran, appears to be growing stronger and more capable. Iran has repeatedly stated it wishes to wipe the United States and Israel off the map. Iran's obvious aim is to establish strategic dominance over the entire region. Their relentless pursuit of nuclear weapons and ballistic missile technology is of grave concern.

Much has been said about Iran's nuclear program, but much less has been articulated about its ballistic missile program. In order to achieve its strategic objectives, Iran has embarked on a significant ballistic missile program. Iranian officials have boasted they have the ability to produce a ballistic missile with a 1,250 mile range. In 2009, the Iranians were able to launch a multistage space launch vehicle that the Air Force concluded ''can serve as a test-bed for long-range ballistic missile technologies.''

Even more troubling the Iranians appear to be developing a new long-range multistage solid rocket motor missile. Why is that important? If the Iranians successfully field this type of technology, they will be able to launch, almost instantaneously, missiles which carry warheads over great distances.

With these ominous developments emanating from Israel's and the United States common foe, do we really want to be seen as distancing ourselves from one of our staunchest allies—especially on such a pivotal issue as Israel's borders. This issue of these borders is only underscored by the constant attacks on Israel's borders by Iran's surrogates, Hezbollah and Hamas.

That is why I believe this Concurrent Resolution is so important. It reaffirms the long-held, bipartisan policy of the United States, that we will ''support and facilitate Israel in maintaining defensible borders and that it is contrary to United States policy and our national security to have the borders of Israel return to the armistice lines that existed on June 4, 1967.''

The United States has no greater friend than Israel and Israel has no greater friend than the United States.

Israel too often finds herself alone in the world, unjustly singled out by the left as a nation uniquely without the moral authority to defend itself.

From my perspective, Israel does not need to apologize to anyone for defending itself against those who would do her harm, and I will always stand by Israel as she seeks to protect her citizens against terrorists and their state sponsors.

Having said that, I also believe many Iranians, especially the young people, know Iran is causing problems in the Middle East. We must support those people who are searchers for freedom.

The security of both our nations is irrevocably linked. This bipartisan concurrent resolution removes any harmful ambiguity the President's remarks last week might have caused.

The United States must stand by Israel. With his remarks last week, President Obama undermined her.

Israel faces consistent unprovoked aggression by longtime supporters of terrorism. But Israel is not a victim. All she asks is the ability to defend herself and for free people to support her right to self-defense.

This is no time for the United States to distance itself from Israel, and I will do everything I can to affirm Israel's territorial integrity and ability to protect her citizens against the unprovoked attacks of terrorist and state actors.

Because Israel is a true friend, I am not surprised that this resolution has strong bipartisan support. My colleague, Senator LIEBERMAN, and I will be joined by members of both parties who want to remind the world the United States is steadfastly committed to the security of Israel and especially our ally's ability to maintain secure, recognized and defensible borders.

AMENDMENTS SUBMITTED AND PROPOSED

SA 434. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 782, to amend the Public Works and Economic Development Act of 1965 to reauthorize that Act, and for other purposes; which was ordered to lie on the table.

SA 435. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 782, supra; which was ordered to lie on the table.