business concern, which is approved within 120 days of the date on which a nonguaranteed loan is obtained by the same small business concern, shall be subject to the provisions of this paragraph.

''(C) FEE ON COMBINATION LOAN.—The lender shall pay a one-time fee of 0.5 percent of the amount of the nonguaranteed loan if the nonguaranteed portion of the loan has a senior credit position to the guaranteed portion of the loan. This fee shall be in addition to any other lender fees and shall not be charged to the borrower.

''(D) LOAN SIZE.—

''(i) PREFERRED LENDERS PROGRAM.—If the loan guaranteed under this subsection is processed under delegated authority under the Preferred Lenders Program, the maximum amount of the nonguaranteed loan may not exceed—

''(I) $1,000,000; or

''(II) a combination of $2,000,000 gross loan amount of a loan guaranteed by the Administration and an additional nonguaranteed loan of $1,000,000.

''(ii) SMALL BUSINESS ADMINISTRATION.—If the loan guaranteed under this subsection is processed and approved by Administration staff, the amount of the nonguaranteed loan may not exceed—

''(I) $2,000,000; or

''(II) a combination of $2,000,000 gross loan amount of a loan guaranteed by the Administration and an additional nonguaranteed loan of $2,000,000.

''(E) USE OF PROCEEDS.—All proceeds from the fee collected under this subparagraph shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Administration of guaranteeing loans under this subsection.''.

(b) TERMINATION OF LENDER AUTHORITY TO RETAIN GUARANTEE FEES.—Section 7(a)(18)(B) of the Small Business Act (15 U.S.C. 636(a)(18)(B)) is amended to read as follows:

''(B) RETENTION OF CERTAIN FEES.—

''(i) IN GENERAL.—Except as provided under clause (ii), lenders participating in the programs established under this subsection may retain not more than 25 percent of a fee collected under subparagraph (A)(i).

''(ii) FISCAL YEAR 2004.—Beginning on the date of enactment of this clause and ending on September 30, 2004, the Administration or its agent shall collect all fees under subparagraph (A)(i). All proceeds from fees collected under this paragraph shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Small Business Administration of guaranteeing loans under this subsection.''.

(c) TEMPORARY MODIFICATION OF ANNUAL LENDER FEE.—Section 7(a)(23) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking ''0.25 percent'' and inserting ''0.35 percent''; and

(2) by adding at the end the following: ''All proceeds from the fee collected under this paragraph shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Administration of guaranteeing loans under this subsection.''.

(d) LIFTING LOAN RESTRICTIONS AND PRIORITY PROCESSING OF REJECTED APPLICATIONS.—

(1) IN GENERAL.—The Small Business Administration shall—

(A) eliminate the program restrictions imposed by policy notices 5000–902 and 0000–1709 to allow for the processing and approval of loan applications cancelled or returned because of the program shutdown or restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709;

(B) permit a small business or lender to resubmit any loan application that was not considered or approved because of the program shutdown or restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709;

(C) give priority to processing any application submitted before January 8, 2004, that was not considered because of the program shutdown or loan restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709;

(D) give priority, to the extent possible, to approving all eligible loans that were cancelled or returned because of the program shutdown or restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709, in the order in which the applications were originally submitted; and

(E) give priority to processing all eligible loans to any small business that has received financing under section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14) and requests a renewal of such financing, regardless of temporary restrictions imposed by the Small Business Administration through the policy notices referred to in this paragraph, and approve such loans, if the small business is otherwise eligible for such financing under that section.

(2) PROOF OF APPLICATION.—An application shall not be denied consideration or approval because the Small Business Administration failed to retain a record of receiving an application if the lender or borrower supplies proof that the application was submitted by mail, fax, or electronic means before January 8, 2004.

(3) RESERVATION AND APPLICATION OF FEE PROCEEDS.—All proceeds from fees authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) shall be combined with any amounts appropriated to carry out such section and used—

(A) first, to process and fund loan guarantees approved pursuant to paragraph (d)(1); and

(B) second, to process and fund other loan guarantees under section 7(a) of the Small Business Act.

(4) NOTIFICATION REQUIREMENT.—The Small Business Administration shall not make any significant policy or administrative changes affecting the operation of the loan program authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) unless, not later than 15 business days before such change, the Administrator of the Small Business Administration submits, under the Administrator's signature, a report that specifically describes the proposed changes and the duration of those changes to—

(A) the chairman and ranking member of the Committee on Small Business and Entrepreneurship of the Senate; and

(B) the chairman and ranking member of the Committee on Small Business of the House of Representatives.

(e) SUNSET DATE.—This section and the amendments made by this section are repealed on October 1, 2004.

SEC. 5. RESUBMISSION OF DISASTER LOAN APPLICATIONS FOR CERTAIN BUSINESSES.

(a) RESUBMISSION OF APPLICATIONS.—During the 30-day period beginning on the date of enactment of this Act, a small business concern may resubmit an application for a loan that was not approved under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) if the following conditions are met:

(1) ORIGINAL APPLICATION.—The small business concern originally submitted an application before January 1, 2003, in response to the events associated with Small Business Administration Disaster Declaration 3364.

(2) LOCATION.—On the date of the original submission of the application and on the date of the resubmission, the applicant operates a facility in Bronx, Kings, Nassau, New York, Queens, Richmond, or Westchester county in the State of New York.

(3) INABILITY TO OPERATE.—Without regard to physical damage to a facility, the applicant was unable to operate at a facility because of a prohibition on the use of the facility, in whole or in part, by an order or other action of a Federal, State, or local government (or any instrumentality of any of the foregoing) for 20 or more consecutive days, occurring as a result of the events associated with Small Business Administration Disaster Declaration 3364.

(b) STANDARD FOR APPROVAL.—The Administrator shall approve (without regard to any requirements applicable under section 7(b) of the Small Business Act (15 U.S.C. 636(b))), a loan with respect to any application resubmitted under subsection (a) if the applicant has a debt coverage ratio, as attested to by a qualified, independent, third-party auditor, of not less than 1.15 for the applicant's last taxable year ending before the date of the submission of the original application. For purposes of determining the debt coverage ratio under this subsection, the Administrator shall not take into account any Federal or State tax lien or obligation other than a judgment lien.

(c) MINIMUM LOAN AMOUNT.—The Administrator shall not approve a loan under this section for an amount that is less than 80 percent of the documented losses shown on the application submitted under subsection (a).

(d) COORDINATION WITH OTHER LOAN LIMITS.—No loan made under this section shall be taken into account under section 7(b)(3)(E) of the Small Business Act (15 U.S.C. 636(b)(3)(E)).

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM of Florida:

S. 2187. A bill to amend the Haitian Refugee Immigration Fairness Act of 1998; to the Committee on the Judiciary.

Mr. GRAHAM of Florida. Mr. President, seven years ago, I introduced the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA). I introduced HRIFA after Congress enacted the Nicaraguan Adjustment and Central American Relief Act (NACARA). NACARA enabled Nicaraguans and Cubans to become permanent residents and permitted many unsuccessful Central American and Eastern European asylum applicants to seek another form of immigration relief. At the time, Haitians were suffering brutal and widespread political persecution by a ruthless dictatorship. Yet lawmakers opted to exclude Haitian asylum seekers from the NACARA legislation.

HRIFA became law with bipartisan support and reversed this grave inequity in U.S. immigration law. It allowed Haitians who had fled political turmoil in their country an opportunity to adjust their status like the opportunity we granted to refuges from other countries. The legislation has been beneficial and nearly 11,000 Haitians have adjusted their status and become legal permanent residents of the United States. However HRIFA contained several flaws that undermine the original intent of the legislation. That is why today I am introducing the HRIFA Improvement Act of 2004. I would like to thank my friend Senator

MIKE DEWINE for taking the lead in cosponsoring this bill and for his continued support and commitment to fairness in our immigration policy.

First, this legislation corrects an oversight that disqualified Haitian refugees who entered the country with falsified papers. Some Haitian refugees, like many who have fled repressive governments, used falsified documents to flee their country when it was impossible for them to get travel documents from their dictatorial government.

If you look at other immigration legislation, it is clear that the exclusion of Haitian refugees who came here with falsified documents is an oversight. NACARA allowed refugees from a long list of countries, including Guatemala, El Salvador, Romania, Hungary, Bulgaria, and a number of others, to adjust their status to legal permanent residence, even if they entered the country with fraudulent documents.

As result of this oversight, many families and up to 5,000 American children face the possible deportation of a spouse, father or mother who has worked for a decade or more to build a life and a family in the United States. There have been media reports, heartrending stories, of parents facing the choice between forever leaving their American-born children in their safe communities and schools in the United States or taking them back to a strife-torn Haiti where their parents risk political violence and persecution.

I ask unanimous consent to include in the RECORD an Associated Press story from December 29, 2003, called ''Flaw in Law threatens Deportation for Haitian Refugees.'' The piece tells the story of Rigaud Rene, a Haitian political activist now living in Miami. Mr. Rene faces deportation because he fled Haiti in 1994 using doctored documents and is therefore not covered by HRIFA. Since coming here, Mr. Rene has learned English, held down a job and earned his GED degree. He also married and has a one and a half year old American-born son.

If Mr. Rene is deported, he will be forced to take his U.S. citizen son with him or leave him here without any means of support. It is a solomonic choice that Mr. Rene should not have to make, especially because his dilemma is the result of a simple oversight in the law.

The difference between the way we treat Haitians and the way we treat refugees from other nations is inconsistent and unfair. The elimination of this kind of inconsistency and unfairness was the primary motivation for the passage of HRIFA in 1998. Clearly, the exclusion of Haitians who entered with falsified documents was an oversight that must now be corrected.

The second purpose of the Improvement Act is to respond to another legislative oversight that left Haitian children and dependents unprotected from ''aging out'' of HRIFA eligibility. HRIFA allows children and unmarried dependents of approved applicants to adjust to legal permanent residency. However, the Bureau of Citizenship and Immigration Services has taken much longer than was expected to approve the many applicants who had eligible children and dependents when they applied. As a result, many of those who would have been eligible had their parents or guardians been approved earlier have now ''aged out'' of eligibility or gotten married.

Currently, these ''aged out'' individuals face the immediate risk of deportation. Their ineligibility is a result solely of administrative delays and is neither their fault nor the intent of HRIFA. The Improvement Act addresses this unforeseen injustice by permitting these individuals to apply for adjustment of status or move to have their cause reopened.

Finally, the HRIFA Improvement Act of 2004 also ensures fairness by extending the protection from deportation to applicants under this Act. This is consistent with the protection extended to applicants under the 1998 HRIFA legislation.

All those who come to the United States fleeing political persecution and violence deserve to be treated fairly and equally. This country is built on this principle of justice and we should give everyone, regardless of his or her national origin, an equal opportunity. That is what this legislation intends to do.

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

[From the Associated Press, Dec. 29, 2003]

FLAW IN LAW THREATENS DEPORTATION FOR HAITIAN REFUGEES

(By Ken Thomas)

Nearly a decade after leaving Haiti, Regaud Rene ends each day with a prayer. He gives thanks for his wife and young son and their life in America—and prays that their time together will endure.

Rene, a former political activist on the island, faces deportation following a lengthy legal battle with immigration authorities.

He says deportation would devastate his family, forcing him to take his 1½-year-old American-born son to Haiti and leave behind his wife. He also will lose a job that helps him send about $300 a month to support family members in Haiti.

''Some people pray to Jesus for miracles,'' Rene said during a recent interview. ''They are not more special than me. So I hope that God can help me, too.''

Rene, 41, is one of about 3,000 Haitian migrants ensnarled in what activists call a flaw in a 1998 law to help provide permanent residency—called green cards—to illegal aliens from Haiti who lived in the United States before 1996.

The bill didn't include waivers for Haitian migrants known as ''airplane refugees'' who used forged documents to flee revengeful abuses and killings in the impoverished island after President Jean-Bertrand Aristide, the country's first freely elected leader, was deposed in a 1991 coup by Gen. Raul Cedras.

In Rene's case, immigration officials have maintained that the altered documents make him ineligible to live here legally because he committed fraud to enter the country.

But local activists contend that pro-Aristide Haitians arriving by air had to use altered documents to escape possible harm in Haiti because the U.S. Coast Guard was interdicting refugees who came by sea and returning them.

''All these people knew they were being looked for,'' said Steven Forester, a senior policy advocate for the Haitian Women of Miami, a nonprofit organization. ''If you're being looked for by a regime that's chopping people's faces off, you don't get into a boat.''

Those who worked on the 1998 Haitian bill said the ''airplane refugees'' were not supposed to be left out. Paul Virtue, who served as general counsel at the former INS in 1998–99, said he thought ''it was an oversight that they were excluded.''

''I don't think anyone really thought about the problem that people would face who came by aircraft,'' Virtue said.

The Department of Homeland Security, which oversees immigration, declined comment on Rene's case. But Dan Kane, a department spokesman, stressed that every case is judged on the individual merits of an applicant's arguments.

Rene initially sought asylum when he first entered the United States in 1994 but was ordered deported by an immigration judge for using a forged passport. His appeal was pending when Congress passed the 1998 law to help Haitians. Rene sought a green card under the new law but his claim was rejected in July 2001.

He appealed the decision and Tuesday his case was sent back to be reheard by an immigration judge. But Aristide's return to power has weakened his argument in the past and his lawyer cautions that Rene could be deported at any moment.

''It's very desperate. They could pick him up today,'' said Clarel Cyriaque, a Miami lawyer handling Rene's case.

Rene tried to get a green card through his wife, Sonie Octalus, who came here in 1996 and is a legal permanent resident, but the family failed to demonstrate deporting him would result in an ''extreme hardship.''

U.S. Rep. Kendrick Meek, a Miami Democrat, introduced legislation in October to expand the Haitian law to include those who arrived by air and to prevent the government from deporting anyone with a pending application. But Meek said it faces an uncertain future.

Meek said ''the only real flicker of light'' would come if the Bush administration embraces Homeland Security Secretary Tom Ridge's recent suggestion of support for an amnesty for illegal immigrants.

Thousands of Haitians have applied for green cards under the 1998 Haitian Refugee Immigration Fairness Act. But the majority of the cases have yet to be adjudicated. A U.S. General Accounting Office report in October found that more than 11,000 of the 37,851 applications have been approved.

Rene was an active Aristide supporter when the Haitian priest ran for president in 1990. He led 300 Aristide supporters in his hometown of Le Borgne and joined the pro-Aristide National Front for Change in Democracy. He passed out leaflets and photos supporting Aristide.

A month after the coup, Rene said he was visited at his home by five members of the military. The men, who were carrying revolvers, threatened him and pushed him around, according to court documents. Rene then went into hiding for two years, staying with a friend in the northern city of Cap-Haitien.

''I was scared to go back to Le Borgne. If I go back to Le Borgne, anything could happen,'' he recalled.

He fled Haiti for the Bahamas by boat in early 1994 and then used forged documents to fly to Miami International Airport in May 1994, months before Aristide was returned to power.

Rene has built a new life in America, learning English at a local Catholic church, working as a deli clerk at a Miami Beach grocery store and taking night classes to earn a GED degree.

Rene married Octalus in February 2001. Their son, Rikinson, was born the following year. The family lives in a small one-bedroom apartment, where a small bed sits in a cramped living room cooled by a white box fan.

If Rene is deported, the couple will send Rikinson with him because Octalus doesn't drive, has no other relatives in the area and speaks limited English. But the decision has been wrenching.

''If they send him to Haiti, it's like telling me I might as well go to Haiti, too,'' Octalus said, through a translator in her native Creole.

The couple also wonders how they'll support their families in Haiti if Rene is deported. Rene sends about $300 a month to support two other children, two sisters and his mother. His wife sends $500 a month to six sisters on the island, paying their rent, school tuition and clothing.

The U.S. Agency for International Development estimates Haitians living in the U.S. send between $700 million to $800 million to Haiti every year. Forester, of Haitian Women of Miami, worries about the impact on families in Haiti who lose financial support when relatives are deported.

''If they really want to send a message not to flee, what they're doing by deporting these people is causing the very migration outflow that they say they're trying to prevent,'' Forester said.

A man of faith, Rene says his hopes have been reduced to prayer. Prayer, he quips, is another part of the American experience.

''In God We Trust,'' Rene said with a smile. ''That's what the Americans say.''

By Mr. FEINGOLD (for himself, Mr. MCCAIN, and Mr. DASCHLE):

S. 2188. A bill to provide for reform of the Corps of Engineers, and for other purposes; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Corps of Engineers Modernization and Improvement Act of 2004. I am pleased to be joined by the senior Senator from Arizona, Mr. MCCAIN, who worked with me in the 107th Congress to reform the Corps. I also thank the senior Senator from South Dakota, Mr. DASCHLE, who, as the Democratic Leader, has long supported Corps reform, for cosponsoring this legislation today.

As we debate the budget resolution this week, we cannot ignore the record-breaking deficits that the Nation faces. Fiscal responsibility has never been so important. This legislation provides Congress with a unique opportunity to underscore our commitment to that goal. Time and time again we have heard that fiscal responsibility and environmental protection are mutually exclusive. Through this legislation, however, we can save taxpayers billions of dollars and protect the environment. As evidence of this unique opportunity, this bill is supported by Taxpayers for Common$ense, the National Taxpayers Union, the National Wildlife Federation, American Rivers, the Corps Reform Network, and Earthjustice.

Reforming the Army Corps of Engineers will be a difficult task for Congress. It involves restoring credibility and accountability to a Federal agency rocked by scandals and constrained by endlessly growing authorizations and a gloomy federal fiscal picture, and yet an agency that Wisconsin, and many other states across the country, have come to rely upon. From the Great Lakes to the mighty Mississippi, the Corps is involved in providing aid to navigation, environmental remediation, water control and a variety of other services in my state alone.

My office has strong working relationships with the Detroit, Rock Island, and St. Paul District Offices that service Wisconsin, and I want the fiscal and management cloud over the Corps to dissipate so that the Corps can continue to contribute to our environment and our economy.

This legislation evolved from my experience in seeking to offer an amendment to the Water Resources Development Act of 2000 to create independent review of Army Corps of Engineers' projects. In response to my initiative, the bill's managers, which included the former Senator from New Hampshire, Senator BOB SMITH, and the senior Senator from Montana, Mr. BAUCUS, adopted an amendment as part of their managers' package to require a National Academy of Sciences study on the issue of peer review of Corps projects.

The bill I introduce today includes many provisions that were included in two bills, one of which I authored and the other I cosponsored, in the 107th Congress. It codifies the idea of independent review of the Corps, which was investigated through the 2000 Water Resources bill. It also provides a mechanism to speed up completion of construction for good Corps projects with large public benefits by deauthorizing low priority and economically wasteful projects.

I will note, however, that this is not the first time that the Congress has realized that the Corps needs to be reformed because of its association with pork projects. In 1836, a House Ways and Means Committee report discovered that at least 25 Corps projects were over budget. In its report, the Committee noted that Congress must ensure that the Corps institutes ''actual reform, in the further prosecution of public works.'' In 1902, Congress created a review board to determine whether Corps projects were justified. The review board was dismantled just over a decade ago, and the Corps is still linked with wasteful spending. Here we are, more than 100 years later, talking about the same issue.

The reality is that the underlying problem is not with the Corps, the problem is with Congress. All too often Members of Congress have seen Corps projects as a way to bring home the bacon, rather than ensuring that taxpayers get the most bang for their federal buck.

This bill puts forth bold, comprehensive reform measures. It modernizes the Corps project planning guidelines, which have not been updated since 1983. It requires the Corps to use sound science in estimating the costs and evaluating the needs for water resources projects. The bill clarifies that the national economic development and environmental protection are co-equal goals of the Corps. Furthermore, the Corps must use current discount rates when determining the costs and benefits of projects. Several Corps projects are justified using a discount rate formula established in 1974, not the current government-wide discount rate promulgated by the Office of Management and Budget. By using this outdated discount rate formula, the Corps often overestimates project benefits and underestimates project costs.

This legislation also requires that a water resource project's benefits must be 1.5 times greater than the costs to the taxpayer. According to a 2002 study of the Corps backlog of projects, at least 60 Corps projects, whose combined costs total $4.6 billion, do not meet this 1.5 to 1 benefit-cost ratio. Thus, this benefit-cost ratio will save the taxpayer billions of dollars. The bill also mandates Federal-local cost sharing of inland waterways, flood control, and future beach renourishment projects, and reduces the Federal cost burden of these projects.

While the bill assumes a flat 50 percent cost-share for flood control projects, my home state of Wisconsin has been on the forefront of responsible flood plain management and also happens to be home to the Association of State Flood Plain Managers. As Congress considers the issue of Corps reform and the Water Resources Development Act, I hope my colleagues will take a closer look at the issue of a sliding cost scale. We should explore the possibility of creating incentives for communities with cutting-edge flood plain management practices to reduce their local share for projects.

The bill requires independent review of Corps projects. The National Academy of Sciences, the General Accounting Office, and even the Inspector General of the Army agree that independent review is an essential step to assuring that each Corps project is economically justified. Independent review will apply to projects in the following circumstances: 1. the project has costs greater than $25 million, including mitigation costs; 2. the Governor of a state that is affected by the project requests a panel; 3. the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse environmental or cultural impact; or 4. the Secretary of the Army determines that the project is controversial. Any party can request that the Secretary make a determination of whether the project is controversial.

This bill also creates a Director of Independent Review within the Office

of the Inspector General of the Department of the Army. The Director is responsible for empaneling experts to review projects. The Secretary is required to respond to the panel's report and explain the extent to which a final report addresses the panel's concerns. The panel report and the underlying data that the Corps uses to justify the project will be made available to the public.

The bill also requires strong environmental protection measures. The Corps is required to mitigate the environmental impacts of its projects in a variety of ways, including by avoiding damaging wetlands in the first place and either holding other lands or constructing wetlands elsewhere when it cannot avoid destroying them. The Corps requires private developers to meet this standard when they construct projects as a condition of receiving a federal permit, and I think the Federal Government should live up to the same standards. Too often, the Corps does not complete required mitigation and enhances environmental risks.

I feel very strongly that mitigation must be completed, that the true costs of mitigation should be accounted for in Corps projects, and that the public should be able to track the progress of mitigation projects. The bill requires the Corps to develop a detailed mitigation plan for each water resources project, and conduct monitoring to demonstrate that the mitigation is working. In addition, the concurrent mitigation requirements of this bill would actually reduce the total mitigation costs by ensuring the purchase of mitigation lands as soon as possible.

This bill streamlines the existing automatic deauthorization process. Estimates of the project backlog runs from $58 billion to $41 billion. Under the bill a project authorized for construction but never started is deauthorized if it is denied appropriations funds towards completion of construction for five straight years. In addition, a project that has begun construction but been denied appropriations funds towards completion for three straight years is deauthorized. The bill also preserves congressional prerogatives over setting the Corps' construction priorities by allowing Congress a chance to reauthorize any of these projects before they are automatically deauthorized. This process will be transparent to all interests, because the bill requires the Corps to make a list of projects in the construction backlog available to Congress and the public at large.

In the past decade, the Corps has routinely strayed from its mission of flood control, navigation, and environmental protection. This legislation also requires that the Corps stick with its primary missions and that any water project that does not have the Corps' primary mission of flood control, navigation, or environmental protection as its main objective will be deauthorized.

This legislation will bring out comprehensive revision of the project review and authorization procedures at the Army Corps of Engineers. My goals for the Corps are to increase transparency and accountability, to ensure fiscal responsibility, and to allow greater stakeholder involvement in their projects. I remain committed to these goals, and to seeing Corps Reform enacted as part of this Congress's Water Resources bill.

I feel that this bill is an important step down the road to a reformed Corps of Engineers. This bill establishes a framework to catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, end old unjustified projects, and provide planners desperately needed support against the never ending pressure of project boosters. Those boosters, include congressional interests, which is why I believe that this body needs to champion reform—to end the perception that Corps projects are all pork and no substance.

I wish it were the case that the changes we are proposing today were not needed, but unfortunately, I see that there is need for this bill. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing the taxpayers more than the Corps estimated, do not have unanticipated environmental impacts, and are built in an environmentally compatible way. This bill will help the Corps do a better job, which is what the taxpayers and the environment deserve.

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. 2188

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Corps of Engineers Modernization and Improvement Act of 2004''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Corps of Engineers is the primary Federal agency responsible for developing and managing the harbors, waterways, shorelines, and water resources of the United States;

(2) the scarcity of Federal resources requires more efficient use of Corps resources and funding, and greater oversight of Corps analyses;

(3) appropriate cost sharing ensures efficient measures of project demands and enables the Corps to meet more national project needs;

(4) the significant demand for recreation, clean water, and healthy wildlife habitat must be fully reflected in the project planning and construction process of the Corps;

(5) the human health, environmental, and social impacts of dams, levees, shoreline stabilization structures, river training structures, river dredging, and other Corps projects and activities must be adequately considered and, in any case in which adverse impacts cannot be avoided, fully mitigated;

(6) the National Academy of Sciences has concluded that the Principles and Guidelines for water resources projects need to be modernized and updated to reflect current economic practices and environmental laws and planning guidelines; and

(7) affected interests must have access to information that will allow those interests to play a larger and more effective role in the oversight of Corps project development and mitigation.

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

(1) to ensure that the water resources investments of the United States are economically justified and enhance the environment;

(2) to provide independent review of feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(3) to ensure timely, ecologically successful, and cost-effective mitigation for Corps projects;

(4) to ensure appropriate local cost sharing to assist in efficient project planning focused on national needs;

(5) to enhance the involvement of affected interests in feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(6) to modernize planning principles of the Corps to meet the economic and environmental needs of riverside and coastal communities and the nation;

(7) to ensure that environmental protection and restoration, and national economic development, are co-equal goals, and given co-equal emphasis, during the evaluation, planning, and construction of Corps projects;

(8) to ensure that project planning, project evaluations, and project recommendations of the Corps are based on sound science and economics and on a full evaluation of the impacts to the health of aquatic ecosystems; and

(9) to ensure that the determination of benefits and costs of Corps projects properly reflects current law and Federal policies designed to protect human health and the environment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACADEMY.—The term ''Academy'' means the National Academy of Sciences.

(2) CORPS.—The term ''Corps'' means the Corps of Engineers.

(3) PRINCIPLES AND GUIDELINES.—The term ''Principles and Guidelines'' means the principles and guidelines of the Corps for water resources projects (consisting of Engineer Regulation 1105–2–100 and Engineer Pamphlet 1165–2–1).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

TITLE I—MODERNIZING PROJECT PLANNING

SEC. 101. MODERN PLANNING PRINCIPLES.

(a) PLANNING PRINCIPLES.—Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) is amended to read as follows:

''SEC. 209. CONGRESSIONAL STATEMENT OF OBJECTIVES.

''(a) IN GENERAL.—It is the intent of Congress that—

''(1) national economic development and environmental protection and restoration are co-equal goals of water resources project planning and management; and

''(2) Federal agencies manage and, if clearly justified, construct water resource projects—

''(A) to meet national economic needs; and

''(B) to protect and restore the environment.

''(b) REVISION OF PLANNING GUIDELINES, REGULATIONS AND CIRCULARS.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2004, the Secretary, in collaboration with the National Academy of Sciences, shall develop proposed revisions of, and revise, the planning guidelines, regulations, and circulars of the Corps.

''(c) ADDITIONAL REQUIREMENTS.—Corps planning regulations revised under subsection (b) shall—

''(1) incorporate new and existing analytical techniques that reflect the probability of project benefits and costs;

''(2) apply discount rates provided by the Office of Management and Budget;

''(3) eliminate biases and disincentives that discourage the use of nonstructural approaches to water resources development and management;

''(4) encourage, to the maximum extent practicable, the restoration of ecosystems;

''(5) consider the costs and benefits of protecting or degrading natural systems;

''(6) ensure that projects are justified by benefits that accrue to the public at large;

''(7) ensure that benefit-cost calculations reflect a credible schedule for project construction;

''(8) ensure that each project increment complies with section 104;

''(9) include as a cost any increase in direct Federal payments or subsidies and exclude as a benefit any increase in direct Federal payments or subsidies; and

''(10) provide a mechanism by which, at least once every 5 years, the Secretary shall collaborate with the National Academy of Sciences to review, and if necessary, revise all planning regulations, guidelines, and circulars.

''(d) NATIONAL NAVIGATION AND PORT PLAN.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2004, the Corps shall develop and annually update an integrated, national plan to manage, rehabilitate and, if justified, modernize inland waterway and port infrastructure to meet current national economic and environmental needs.

''(2) TOOLS.—To develop the plan, the Corps shall employ economic tools that—

''(A) recognize the importance of alternative transportation destinations and modes; and

''(B) employ practicable, cost-effective congestion management alternatives before constructing and expanding infrastructure to increase waterway and port capacity.

''(3) BENEFITS AND PROXIMITY.—The Corps shall give particular consideration to the benefits and proximity of proposed and existing port, harbor, waterway, rail and other transportation infrastructure in determining whether to construct new water resources projects.

''(e) NOTICE AND COMMENT.—The Secretary shall comply with the notice and comment provisions of chapter 551 of title 5, United States Code, in issuing revised planning regulations, guidelines and circulars.

''(f) APPLICABILITY.—On completion of the revisions required under this section, the Secretary shall apply the revised regulations to projects for which a draft feasibility study or draft reevaluation report has not yet been issued.

''(g) PROJECT REFORMULATION.—Projects of the Corps, and separable elements of projects of the Corps, that have been authorized for 10 years, but for which less than 15 percent of appropriations specifically identified for construction have been obligated, shall not be constructed unless a general reevaluation study demonstrates that the project or separable element meets—

''(1) all project criteria and requirements applicable at the time the study is initiated, including requirements under this section; and

''(2) cost share and mitigation requirements of this Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)–17) is repealed.

(2) Section 7(a) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 941) is repealed.

SEC. 102. INDEPENDENT REVIEW.

(a) DEFINITIONS.—In this section:

(1) AFFECTED STATE.—The term ''affected State'', with respect to a water resources project, means a State or portion of a State that—

(A) is located, at least partially, within the drainage basin in which the project is carried out; and

(B) would be economically or environmentally affected as a result of the project.

(2) DIRECTOR.—The term ''Director'' means the Director of Independent Review appointed under subsection (c)(1).

(b) PROJECTS SUBJECT TO INDEPENDENT REVIEW.—

(1) IN GENERAL.—The Secretary shall ensure that each feasibility report, general reevaluation report, and environmental impact statement for each water resources project described in paragraph (2) is subject to review by an independent panel of experts established under this section.

(2) PROJECTS SUBJECT TO REVIEW.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project has an estimated total cost of more than $25,000,000, including mitigation costs;

(B) the Governor of an affected State requests the establishment of an independent panel of experts for the project;

(C) the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse impact on environmental, cultural, or other resources under the jurisdiction of the agency; or

(D) the Secretary determines under paragraph (3) that the project is controversial.

(3) CONTROVERSIAL PROJECTS.—

(A) IN GENERAL.—The Secretary shall determine that a water resources project is controversial for the purpose of paragraph (2)(D) if the Secretary finds that—

(i) there is a significant dispute as to the size, nature, or effects of the project;

(ii) there is a significant dispute as to the economic or environmental costs or benefits of the project; or

(iii) there is a significant dispute as to the benefits to the communities affected by the project of a project alternative that—

(I) was not the focus of the feasibility report, general reevaluation report, or environmental impact statement for the project; or

(II) was not considered in the feasibility report, general reevaluation report, or environmental impact statement for the project.

(B) WRITTEN REQUESTS.—Not later than 30 days after the date on which the Secretary receives a written request of any party, or on the initiative of the Secretary, the Secretary shall determine whether a project is controversial.

(c) DIRECTOR OF INDEPENDENT REVIEW.—

(1) APPOINTMENT.—The Inspector General of the Army shall appoint in the Office of the Inspector General of the Army a Director of Independent Review.

(2) QUALIFICATIONS.—The Inspector General of the Army shall select the Director from among individuals who are distinguished experts in biology, hydrology, engineering, economics, or another discipline relating to water resources management.

(3) LIMITATION ON APPOINTMENTS.—The Inspector General of the Army shall not appoint an individual to serve as the Director if the individual has a financial interest in or close professional association with any entity with a financial interest in a water resources project that, on the date of appointment of the Director, is—

(A) under construction;

(B) in the preconstruction engineering and design phase; or

(C) under feasibility or reconnaissance study by the Corps.

(4) TERMS.—

(A) IN GENERAL.—The term of a Director appointed under this subsection shall be 6 years.

(B) TERM LIMIT.—An individual may serve as the Director for not more than 2 nonconsecutive terms.

(5) DUTIES.—The Director shall establish a panel of experts to review each water resources project that is subject to review under subsection (b).

(d) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.—After the Secretary selects a preferred alternative for a water resources project subject to review under subsection (b) in a formal draft feasibility report, draft general reevaluation report, or draft environmental impact statement, the Director shall establish a panel of experts to review the project.

(2) MEMBERSHIP.—A panel of experts established by the Director for a project shall be composed of not less than 5 nor more than 9 independent experts (including 1 or more biologists, hydrologists, engineers, and economists) who represent a range of areas of expertise.

(3) LIMITATION ON APPOINTMENTS.—The Director shall not appoint an individual to serve on a panel of experts for a project if the individual has a financial interest in or close professional association with any entity with a financial interest in the project.

(4) CONSULTATION.—The Director shall consult with the Academy in developing lists of individuals to serve on panels of experts under this section.

(5) NOTIFICATION.—

(A) IN GENERAL.—To ensure that the Director is able to effectively carry out the duties of the Director under this section, the Secretary shall notify the Director in writing not later than 90 days before the release of a draft feasibility report, draft general reevaluation report, or draft environmental impact statement, for every water resources project.

(B) CONTENTS.—The notification shall include—

(i) the estimated cost of the project; and

(ii) a preliminary assessment of whether a panel of experts may be required.

(6) COMPENSATION.—An individual serving on a panel of experts under this section shall be compensated at a rate of pay to be determined by the Inspector General of the Army.

(7) TRAVEL EXPENSES.—A member of a panel of experts under this section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the panel.

(e) DUTIES OF PANELS.—

(1) IN GENERAL.—A panel of experts established for a water resources project under this section shall—

(A) review each draft feasibility report, draft general reevaluation report, and draft environmental impact statement prepared for the project;

(B) assess the adequacy of the economic, scientific, and environmental models used by the Secretary in reviewing the project to ensure that—

(i) the best available economic and scientific methods of analysis have been used;

(ii) the best available economic, scientific, and environmental data have been used; and

(iii) any regional effects on navigation systems have been examined;

(C) receive from the public written and oral comments concerning the project;

(D) not later than the deadline established under subsection (f), submit to the Secretary a report concerning the economic, engineering, and environmental analyses of the project, including the conclusions of the panel, with particular emphasis on areas of public controversy, with respect to the feasibility report, general reevaluation report, or environmental impact statement; and

(E) not later than 30 days after the date of issuance of a final feasibility report, final general reevaluation report, or final environmental impact statement, submit to the Secretary a brief report stating the views of the panel on the extent to which the final analysis adequately addresses issues or concerns raised by each earlier evaluation by the panel.

(2) EXTENSIONS.—

(A) IN GENERAL.—The panel may request from the Director a 30-day extension of the deadline established under paragraph (1)(E).

(B) RECORD OF DECISION.—The Secretary shall not issue a record of decision until after, at the earliest—

(i) the final day of the 30-day period described in paragraph (1)(E); or

(ii) if the Director grants an extension under subparagraph (A), the final day of end of the 60-day period beginning on the date of issuance of a final feasibility report described in paragraph (1)(E) and ending on the final day of the extension granted under subparagraph (A).

(f) DURATION OF PROJECT REVIEWS.—

(1) DEADLINE.—Except as provided in paragraph (2), not later than 180 days after the date of establishment of a panel of experts for a water resources project under this section, the panel shall complete—

(A) each required review of the project; and

(B) all other duties of the panel relating to the project (other than the duties described in subsection (e)(1)(E)).

(2) EXTENSION OF DEADLINE FOR REPORT ON PROJECT REVIEWS.—Not later than 240 days after the date of issuance of a draft feasibility report, draft general reevaluation report, or draft environmental impact statement for a project, if a panel of experts submits to the Director before the end of the 180-day period described in paragraph (1), and the Director approves, a request for a 60-day extension of the deadline established under that paragraph, the panel of experts shall submit to the Secretary a report required under subsection (e)(1)(D).

(g) RECOMMENDATIONS OF PANEL.—

(1) CONSIDERATION BY SECRETARY.—

(A) IN GENERAL.—If the Secretary receives a report on a water resources project from a panel of experts under this section by the applicable deadline under subsection (e)(1)(E) or (f), the Secretary shall, at least 14 days before entering a final record of decision for the water resources project—

(i) take into consideration any recommendations contained in the report; and

(ii) prepare a written explanation for any recommendations not adopted.

(B) INCONSISTENT RECOMMENDATIONS AND FINDINGS.—Recommendations and findings of the Secretary that are inconsistent with the recommendations and findings of a panel of experts under this section shall not be entitled to deference in a judicial proceeding.

(2) PUBLIC REVIEW; SUBMISSION TO CONGRESS.—After receiving a report on a water resources project from a panel of experts under this section (including a report under subsection (e)(1)(E)), the Secretary shall—

(A) immediately make a copy of the report (and, in a case in which any written explanation of the Secretary on recommendations contained in the report is completed, shall immediately make a copy of the response) available for public review; and

(B) include a copy of the report (and any written explanation of the Secretary) in any report submitted to Congress concerning the project.

(h) PUBLIC ACCESS TO INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall ensure that information relating to the analysis of any water resources project by the Corps, including all supporting data, analytical documents, and information that the Corps has considered in the analysis, is made available—

(A) to any individual upon request;

(B) to the public on the Internet; and

(C) to an independent review panel, if such a panel is established for the project.

(2) TYPES OF INFORMATION.—Information concerning a project that is available under paragraph (1) shall include—

(A) any information that has been made available to the non-Federal interests with respect to the project; and

(B) all data and information used by the Corps in the justification and analysis of the project.

(3) EXCEPTION FOR TRADE SECRETS.—

(A) IN GENERAL.—The Secretary shall not make information available under paragraph (1) that the Secretary determines to be a trade secret of any person that provided the information to the Corps.

(B) CRITERIA FOR TRADE SECRETS.—The Secretary shall consider information to be a trade secret only if—

(i) the person that provided the information to the Corps—

(I) has not disclosed the information to any person other than—

(aa) an officer or employee of the United States or a State or local government;

(bb) an employee of the person that provided the information to the Corps; or

(cc) a person that is bound by a confidentiality agreement; and

(II) has taken reasonable measures to protect the confidentiality of the information and intends to continue to take the measures;

(ii) the information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law; and

(iii) disclosure of the information is likely to cause substantial harm to the competitive position of the person that provided the information to the Corps.

(i) COSTS.—

(1) LIMITATION ON COST OF REVIEW.—The cost of conducting a review of a water resources project under this section shall not exceed—

(A) $250,000 for a project, if the total cost of the project in current year dollars is less than $50,000,000; and

(B) 0.5 percent of the total cost of the project in current year dollars, if the total cost is $50,000,000 or more.

(2) TREATMENT.—The cost of conducting a review of a project under this section shall be considered to be part of the total cost of the project.

(3) COST SHARING.—A review of a project under this section shall be subject to section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)).

(4) WAIVER OF LIMITATION.—The Secretary may waive a limitation under paragraph (1) if the Secretary determines that the waiver is appropriate.

(j) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a panel of experts established under this section.

SEC. 103. BENEFIT-COST ANALYSIS.

Section 308(a) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(a)) is amended—

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

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) any projected benefit attributable to any change in, or intensification of, land use arising from the draining, reduction, or elimination of wetlands.''.

SEC. 104. BENEFIT-COST RATIO.

(a) RECOMMENDATION OF PROJECTS.—Beginning in fiscal year 2004, in the case of a water resources project that is subject to a benefit-cost analysis, the Secretary may recommend the project for authorization by Congress, and may choose the project as a recommended alternative in any record of decision or environmental impact statement, only if the project, in addition to meeting any other criteria required by law, has projected national benefits that are at least 1.5 times as great as the estimated total costs of the project, based on current discount rates provided by the Office of Management and Budget.

(b) REVIEW AND DEAUTHORIZATION OF PROJECTS.—

(1) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Secretary shall review each water resources project described in paragraph (2) to determine whether the projected benefits of the project are less than 1.5 times as great as the estimated total costs of the project.

(2) PROJECTS SUBJECT TO REVIEW.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project was authorized before the date on which the review is commenced;

(B) the project is subject to a benefit-cost analysis; and

(C) an amount that is less than 33 percent of the estimated total costs of the project (excluding costs of preconstruction engineering and design) has been obligated for the project.

(3) DEAUTHORIZATIONS.—

(A) IN GENERAL.—On completion of the review under paragraph (1), the Secretary shall submit to Congress a list that describes each water resources project the projected benefits of which are less than 1.5 times as great as the estimated total costs of the project.

(B) PROJECTS.—A project included on the list under subparagraph (A) shall be deauthorized effective beginning 3 years after the date of submission of the list to Congress unless, during that 3-year period, Congress reauthorizes the project.

(4) DEAUTHORIZED PROJECTS FOR WHICH CONSTRUCTION HAS BEEN COMMENCED.—In the case of a water resources project that is deauthorized under paragraph (3) and for which construction (other than preconstruction engineering and design) has been commenced, the Secretary may take such actions as are necessary with respect to the project to protect public health and safety and the environment.

SEC. 105. COST SHARING.

(a) INLAND WATERWAYS.—

(1) CONSTRUCTION.—Section 102(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2212(a)) is amended—

(A) in the first sentence, by striking ''One-half of the costs of construction'' and inserting ''Forty-five percent of the costs of construction''; and

(B) by striking the second sentence and inserting ''Fifty-five percent of those costs shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.''.

(2) OPERATIONS AND MAINTENANCE.—Section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212) is amended by striking subsections (b) and (c) and inserting the following:

''(b) OPERATION AND MAINTENANCE.—

''(1) FEDERAL SHARE.—The Federal share of the cost of operation and maintenance shall be 100 percent in the case of—

''(A) a project described in paragraph (1) or (2) of subsection (a); or

''(B) the portion of the project authorized by section 844 that is allocated to inland navigation.

''(2) SOURCE OF FEDERAL SHARE.—

''(A) GENERAL FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is less than or equal to 2 cents per ton mile, or in the case of the portion of the project authorized by section 844 that is allocated to inland navigation, the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury.

''(B) GENERAL FUND AND INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 2 but less than or equal to 10 cents per ton mile—

''(i) 75 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury; and

''(ii) 25 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

''(C) INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 10 cents per ton mile but less than 30 cents per ton mile, 100 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

''(D) NON-FEDERAL RESPONSIBILITY.—

''(i) IN GENERAL.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 30 cents per ton-mile, the cost of operations and maintenance shall be a non-Federal responsibility.

''(ii) DEAUTHORIZATION.—In a case in which the Secretary determines that the non-Federal interests for a project described in clause (i) are unable to pay for the cost of operations and maintenance of the project, the project is deauthorized as of the date of that determination.''.

(b) FLOOD DAMAGE REDUCTION.—Section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) is amended—

(1) in subsections (a)(2) and (b), by striking ''35'' each place it appears and inserting ''50'';

(2) in the paragraph heading of subsection (a)(2), by striking ''35 PERCENT MINIMUM''' and inserting ''MINIMUM'''; and

(3) in the paragraph heading of subsection (b), by striking ''35'' and inserting ''50''.

(c) BEACH REPLACEMENT.—Section 103(d)(2)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(d)(2)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

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

''(B) 2004 AND SUBSEQUENT PROJECTS.—For any project authorized after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2004, the non-Federal cost of the periodic nourishment of the project, or any measure for shore protection or beach erosion control for the project, shall be 65 percent.''.

TITLE II—MITIGATION

SEC. 201. FULL MITIGATION.

Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) PROJECTS.—

''(A) IN GENERAL.—After November 17, 1986, the Secretary shall not submit to Congress any proposal for the authorization of any water resources project, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment, unless the report contains—

''(i) a specific plan to fully mitigate losses of aquatic and terrestrial resources and fish and wildlife created by the project; or

''(ii) a determination by the Secretary that the project will have negligible adverse impact on aquatic and terrestrial resources and fish and wildlife.

''(B) SPECIFIC REQUIREMENTS.—Specific mitigation plans shall ensure that impacts to bottomland hardwood forests and other habitat types are mitigated in kind.

''(C) CONSULTATION.—In carrying out this paragraph, the Secretary shall consult with appropriate Federal and non-Federal agencies.''; and

(2) by adding at the end the following:

''(3) STANDARDS FOR MITIGATION.—

''(A) IN GENERAL.—To fully mitigate losses to fish and wildlife resulting from a water resources project, the Secretary shall, at a minimum—

''(i) acquire and restore 1 acre of superior or equivalent habitat of the same type to replace each acre of habitat adversely affected by the project; and

''(ii) replace the hydrologic functions and characteristics, the ecological functions and characteristics, and the spatial distribution of the habitat adversely affected by the project.

''(B) DETAILED MITIGATION PLAN.—The specific mitigation plan for a water resources project under paragraph (1) shall include, at a minimum—

''(i) a detailed and specific plan to monitor mitigation implementation and ecological success, including the designation of the entities that will be responsible for monitoring;

''(ii) specific ecological success criteria by which the mitigation will be evaluated and determined to be successful, prepared in consultation with the United States Fish and Wildlife Service;

''(iii) a detailed description of the land and interests in land to be acquired for mitigation and the basis for a determination that land and interests are available for acquisition;

''(iv) sufficient detail regarding the chosen mitigation sites and type and amount of restoration activities to permit a thorough evaluation of the plan's likelihood of ecological success and resulting aquatic and terrestrial resource functions and habitat values; and

''(v) a contingency plan for taking corrective actions if monitoring demonstrates that mitigation efforts are not achieving ecological success as described in the ecological success criteria.

''(C) APPLICABLE LAW.—A time period for mitigation monitoring or for the implementation and monitoring of contingency plan actions shall not be subject to the deadlines described in section 202.

''(4) DETERMINATION OF MITIGATION SUCCESS.—

''(A) IN GENERAL.—Mitigation shall be considered to be successful at the time at which monitoring demonstrates that the mitigation has met the ecological success criteria established in the mitigation plan.

''(B) REQUIREMENTS FOR SUCCESS.—To ensure the success of any attempted mitigation, the Secretary shall—

''(i) consult yearly with the United States Fish and Wildlife Service on each water resources project requiring mitigation to determine whether mitigation monitoring for that project demonstrates that the project is achieving, or has achieved, ecological success;

''(ii) ensure that implementation of the mitigation contingency plan for taking corrective action begins not later than 30 days after a finding by the Secretary or the United States Fish and Wildlife Service that the original mitigation efforts likely will not result in, or have not resulted in, ecological success;

''(iii) complete implementation of the contingency plan as expeditiously as practicable; and

''(iv) ensure that monitoring of mitigation efforts, including those implemented through a mitigation contingency plan, continues until the monitoring demonstrates that the mitigation has met the ecological success criteria.

''(5) RECOMMENDATION OF PROJECTS.—The Secretary shall not recommend a water resources project alternative or choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment completed after the date of enactment of this paragraph unless the Secretary determines that the mitigation plan for the alternative will successfully mitigate the adverse impacts of the project on aquatic and terrestrial resources, hydrologic functions, and fish and wildlife.

''(6) COMPLETION OF MITIGATION BEFORE CONSTRUCTION OF NEW PROJECTS.—The Secretary shall complete all promised mitigation for water resources projects in a particular watershed before constructing any new water resources project in that watershed.''.

SEC. 202. CONCURRENT MITIGATION.

Section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(a)) is amended—

(1) by striking ''(a)(1) In the case'' and inserting the following:

''(a) MITIGATION.—

''(1) IN GENERAL.—In the case'';

(2) in paragraph (1), by striking ''interests—'' and all that follows through ''losses),'' and inserting the following: ''interests shall be undertaken or acquired—

''(A) before any construction of the project (other than such acquisition) commences; or

''(B) concurrently with the acquisition of land and interests in land for project purposes (other than mitigation of fish and wildlife losses);'';

(3) in paragraph (2), by striking ''(2) For the purposes'' and inserting the following:

''(2) COMMENCEMENT OF CONSTRUCTION.—For the purpose''; and

(4) by adding at the end the following:

''(4) IMPLEMENTATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), to ensure concurrent mitigation, the Secretary shall implement—

''(i) 50 percent of required mitigation before beginning construction of a project; and

''(ii) the remainder of required mitigation as expeditiously as practicable, but not later than the last day of construction of the project or separable element of the project.

''(B) EXCEPTION FOR PHYSICAL IMPRACTICABILITY.—In a case in which the Secretary determines that it is physically impracticable to complete mitigation by the last day of construction of the project or separable element of the project, the Secretary shall reserve or reprogram sufficient funds to ensure that mitigation implementation is completed as expeditiously as practicable, but in no case later than the end of the next fiscal year immediately following the last day of that construction.

''(5) USE OF FUNDS.—Funds made available for preliminary engineering and design, construction, or operations and maintenance shall be available for use in carrying out this section.''.

SEC. 203. MITIGATION TRACKING SYSTEM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a recordkeeping system to track each water resources project constructed, operated, or maintained by the Secretary, and for each permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344)—

(1) the quantity and type of wetland and other habitat types affected by the project, project operation, or permitted activity;

(2) the quantity and type of mitigation required for the project, project operation or permitted activity;

(3) the quantity and type of mitigation that has been completed for the project, project operation or permitted activity; and

(4) the status of monitoring for the mitigation carried out for the project, project operation or permitted activity.

(b) REQUIRED INFORMATION AND ORGANIZATION.—The recordkeeping system shall—

(1) include information on impacts and mitigation described in subsection (a) that occur after December 31, 1969; and

(2) be organized by watershed, project, permit application, and zip code.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public on the Internet.

TITLE III—ADDRESSING THE PROJECT BACKLOG

SEC. 301. PROJECT BACKLOG.

(a) REVIEW AND REPORT ON WATER RESOURCES CONSTRUCTION BACKLOG.—

(1) DEFINITIONS.—In this subsection:

(A) ACTIVE.—The term ''active'', with respect to a project, means that—

(i) the project is economically justified;

(ii) the project has received funding for—

(I) preconstruction engineering and design; or

(II) construction; and

(iii) the non-Federal interests with respect to the project have demonstrated willingness and the ability to provide the required non-Federal share.

(B) DEFERRED.—The term ''deferred'', with respect to a project, means that the project—

(i) has doubtful economic justification;

(ii) requires reevaluation to determine the economic feasibility of the project; or

(iii) is a project for which the non-Federal interests are unable to provide required cooperation.

(C) INACTIVE.—The term ''inactive'', with respect to a project, means that—

(i) the project is not economically justified;

(ii) the project no longer meets current and prospective needs as described in a feasibility report or general reevaluation report;

(iii) the non-Federal interests with respect to the project have not demonstrated willingness or the ability to provide the required non-Federal share; or

(iv)(I) the project most recently received, under an Act of Congress, authorization or reauthorization of construction more than 25 years before the date of enactment of this Act; and

(II) an amount that is less than 33 percent of the estimated total costs of the project (excluding costs of preconstruction engineering and design) has been obligated for the project as of the date of enactment of this Act.

(D) PROJECT.—The term ''project'' means a water resources project, or a separable element of a water resources project, that is authorized by law for funding from—

(i) the Construction, General, appropriations account; or

(ii) the construction portion of the Flood Control, Mississippi River and Tributaries, appropriations account.

(2) STUDY.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a study consisting of—

(i) the list described in subparagraph (B); and

(ii) the information described in subparagraph (C).

(B) LIST.—The list referred to in subparagraph (A) is a list of all authorized water resources projects—

(i) that have not been commenced; or

(ii) the construction of which has not been completed.

(C) REQUIRED INFORMATION.—Each project on the list described in subparagraph (B) shall be accompanied by information on—

(i) the primary purpose of the project;

(ii) the year in which construction of the project was commenced;

(iii) the total estimated cost of the project in current year dollars;

(iv) the benefit-cost ratio of the project, determined based on current discount rates;

(v) the estimated annual benefits and annual costs of the project;

(vi) the remaining additional benefits and the remaining additional costs to complete construction of the project (including the ratio that remaining benefits bear to remaining costs);

(vii)(I) the year during which the most recent major studies of the feasibility and design of the project were completed; and

(II) the year during which the most recent environmental impact statement or environmental assessment for the project was completed;

(viii) the date of the last year for which economic data that was included in the most recent analysis of the feasibility and justification of the project was collected;

(ix) the status of each project as—

(I) reconnaissance, preconstruction engineering and design, or construction; and

(II) active, deferred, or inactive; and

(x) the information described in paragraph (3) for each particular type of project.

(3) INFORMATION FOR PARTICULAR PROJECT TYPE.—The study under paragraph (2) shall include—

(A) in the case of a flood damage reduction project—

(i) the extent to which the project reflects national flood damage reduction priorities as established by the Federal Emergency Management Agency;

(ii)(I) the level of flood protection provided; and

(II) to the maximum extent practicable, the extent to which the project is based on projected growth and the basis for each projection of growth; and

(iii) the extent to which the project—

(I) restores natural aquatic ecosystem functions; and

(II) avoids adverse environmental impacts and risk before implementation of mitigation activities;

(B) in the case of a navigation project—

(i)(I) the extent to which the economic benefits of the project are based on existing levels of commercial traffic rather than projected growth in commercial traffic; and

(II) to the maximum extent practicable, the extent to which the project is based on projected growth and the basis for each projection of growth; and

(ii) the extent of the likely environmental benefits of the project, including the extent of—

(I) remediation of contaminated sediments, or reuse of dredged material, to restore aquatic habitat; and

(II) adverse environmental impacts and risks of the project; and

(C) in the case of an environmental restoration project—

(i) the extent to which the project—

(I) restores natural hydrologic processes and the spatial extent of aquatic habitat; and

(II) otherwise produces self-sustaining environmental benefits; and

(ii) the extent to which the project addresses critical national conservation priorities, including preservation and protection of endangered and threatened species or habitat of endangered and threatened species.

(4) MEASUREMENT AND REPORTING.—

(A) IN GENERAL.—The Secretary shall use objective and quantifiable standards for measuring and reporting the information required to be submitted under paragraph (3).

(B) ALTERNATIVE METHOD OF REPORTING.—In any case in which the information required to be submitted under subparagraph (B)(ii) or (C) of paragraph (3) cannot be quantified, the information shall be reported through an objective description of the benefits and impacts of the applicable project.

(5) AVAILABILITY TO THE PUBLIC.—The study submitted to Congress under paragraph (2) shall be made available to—

(A) any person on request; and

(B) the public on the Internet.

(b) PROJECT DEAUTHORIZATIONS.—Section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a) is amended to read as follows:

''SEC. 1001. PROJECT DEAUTHORIZATIONS.

''(a) DEFINITIONS.—In this section:

''(1) CONSTRUCTION OF A PROJECT.—The term 'construction of a project' means—

''(A) with respect to a flood control project—

''(i) the acquisition of land, an easement, or a right-of-way; or

''(ii) the performance of physical work under a construction contract;

''(B) with respect to an environmental protection and restoration project—

''(i) the acquisition of land, an easement, or a right-of-way primarily to facilitate the restoration of wetland or similar habitat; or

''(ii) the performance of physical work under a construction contract—

''(I) to modify an existing project facility; or

''(II) to construct a new environmental protection or restoration measure;

''(C) with respect to a shore protection project—

''(i) the acquisition of land, an easement, or a right-of-way; or

''(ii) the performance of physical work under a construction contract for a structural or a nonstructural measure; and

''(D) with respect to any project that is not described in subparagraph (A), (B), or (C), the performance of physical work under a construction contract.

''(2) INACTIVE.—The term 'inactive', with respect to a project, means that—

''(A) the project is not economically justified;

''(B) the project no longer meets current and prospective needs as described in a feasibility report or general reevaluation report;

''(C) the non-Federal interests with respect to the project have not demonstrated willingness or the ability to provide the required non-Federal share; or

''(D)(i) the project most recently received, under an Act of Congress, authorization or reauthorization for construction more than 25 years before the date of enactment of this subparagraph; and

''(ii) an amount that is less than 33 percent of the estimated total costs of the project (excluding costs of preconstruction engineering and design) has been obligated for the project as of the date of enactment of this subparagraph.

''(3) PHYSICAL WORK UNDER A CONSTRUCTION CONTRACT.—The term 'physical work under a construction contract' does not include any activity relating to—

''(A) project planning;

''(B) engineering and design;

''(C) relocation; or

''(D) the acquisition of land, an easement, or a right-of-way.

''(4) PROJECT.—The term 'project' means a water resources project, or a separable element of a water resources project, that is authorized by law for funding from—

''(A) the Construction, General, appropriations account; or

''(B) the construction portion of the Flood Control, Mississippi River and Tributaries, appropriations account.

''(b) INACTIVE PROJECTS.—

''(1) LIST.—Not later than December 31, 2004, and biennially thereafter, the Secretary shall submit to Congress a list of inactive projects.

''(2) DEAUTHORIZATION.—An inactive project shall be deauthorized effective beginning 1 year after the date of submission of a list under paragraph (1) that includes the project unless, during that 1-year period, Congress reauthorizes the project in accordance with the Corps of Engineers Modernization and Improvement Act of 2004 and the amendments made by that Act.

''(c) PROJECTS FOR WHICH ACTUAL CONSTRUCTION HAS NOT BEGUN.—

''(1) LIST.—The Secretary shall annually submit to Congress a list of projects that have been authorized for construction, but for which no actual construction has begun and no Federal funds have been obligated for construction during the 3 consecutive fiscal years preceding the fiscal year in which the list is submitted.

''(2) DEAUTHORIZATION.—A project authorized for construction that is not subject to subsection (b) shall be deauthorized effective beginning 5 years after the date of the most recent authorization or reauthorization of the project unless, during that 5-year period, Federal funds are obligated for construction of the project.

''(d) PROJECTS FOR WHICH CONSTRUCTION HAS BEEN SUSPENDED.—

''(1) LIST.—The Secretary shall annually submit to Congress a list of projects—

''(A) that have been authorized for construction; and

''(B) for which no Federal funds have been obligated for construction during the 2 consecutive fiscal years preceding the date of submission of the list.

''(2) DEAUTHORIZATION.—A project that is not subject to subsection (b) but for which Federal funds have been obligated for construction of the project shall be deauthorized if Federal funds appropriated specifically for construction of the project, as indicated in an Act of Congress or in accompanying legislative report language, are not obligated for construction of the project during the period of 3 fiscal years following the last fiscal year in which Federal funds were obligated for construction of the project.

''(e) COMPLETED PROJECTS.—Subsections (b), (c), and (d) shall not apply—

''(1) in the case of a beach nourishment project, after initial construction of the project has been completed; or

''(2) in the case of any other project, after construction of the project has been completed.

''(f) CONGRESSIONAL NOTIFICATIONS.—On submission of a list under subsection (b), (c), or (d), the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project on the list is or would be located.

''(g) FINAL DEAUTHORIZATION LIST.—The Secretary shall annually publish in the Federal Register a list of all projects deauthorized under subsections (b), (c), and (d).''.

(c) WATERWAYS.—

(1) REPORT BY ACADEMY.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall enter into a contract with the Academy to prepare a report on waterways in the Inland Waterways System.

(B) CONTENTS OF REPORT.—The report shall—

(i) review the Inland Waterways System;

(ii) provide data on the commercial traffic being carried by each waterway in the System as of the date of the report;

(iii) provide an analysis of the extent to which prior projections of the commercial traffic carried by each waterway in the System were accurate; and

(iv) based on the information provided under clauses (ii) and (iii)—

(I) identify underused waterways in the System;

(II) propose new economic and environmental uses for underused waterways;

(III) describe statutory and administrative reforms that are needed to ease the transition from the current authorized uses of the System to new economic and environmental uses of the System; and

(IV) recommend which waterways in the System should be decommissioned.

(2) DECOMMISSIONING MECHANISM FOR UNDERUSED WATERWAYS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall by regulation establish a mechanism for the decommissioning of waterways that—

(A) are no longer economically justified, based on commercial traffic and current discount rates; or

(B) are no longer in the national interest.

SEC. 302. PRIMARY MISSION FOCUS.

Any water resources project that does not have as a primary project purpose 1 of the primary Corps missions of environmental protection, flood control, or navigation and that, as of the date of enactment of this section, has no appropriated construction funding, is deauthorized.

Mr. MCCAIN. Madam President, I am pleased to join my friend, Senator FEINGOLD in cosponsoring this important and timely legislation. Today, the Senate is deliberating over the nation's budget priorities in the face of our enormous deficit.

Historically, Congress has considered water projects, costing many billions of taxpayer dollars, as essential expenditures—regardless of the environmental costs or public benefits. The reforms of the Corps of Engineers' procedures in this bill are designed to achieve more cost-effective expenditures for water projects that will yield more environmental, economic, and social benefits. The need for these changes has been acknowledged by many for some time, but never has the need to spend scarce taxpayer dollars wisely been as crucial as it is now.

The Corps procedures for planning and approving projects, as well as the Congressional system for funding projects, are broken, but they can be effectively fixed. In fact, the reforms in this bill are based on thorough program analysis and common sense. I commend Senator FEINGOLD for building on the legislation we introduced with Senator SMITH in the last Congress to provide additional improvements. It is surprising that Congress hasn't already put these procedures in place, but there is no time or need like the present.

Provisions of the legislation we are introducing today would modify the Corps planning and approval procedures to consider both economic and environmental objectives. Independent review of Corps projects and an increase in the cost-benefit factor would ensure that only beneficial projects are constructed. Effective measures for mitigation of environmental and other damage caused by projects would be required and monitored. The existing $56 billion project backlog is addressed and projects that have been suspended or never started for five years would no longer be considered.

Water projects that provide economic and environmental benefits to our state citizens and all federal taxpayers serve the common good and reflect our common interest in fiscal responsibility. I urge my colleagues to support this legislation.

By Mr. BIDEN:

S. 2189. A bill to establish grants to improve and study the National Domestic Violence Hotline; to the Committee on the Judiciary.

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

S. 2189

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 ''Domestic Violence Connections Campaign Act of 2004''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) More than 500 men and women call the National Domestic Violence Hotline every day to get immediate, informed, and confidential assistance to help deal with family violence.

(2) The National Domestic Violence Hotline service is available, toll-free, 24 hours a day and 7 days a week, with bilingual staff, access to translators in 150 languages, and a TTY line for the hearing-impaired.

(3) With access to over 5,000 shelters and service providers across the United States, Puerto Rico, Alaska, Hawaii, and the United States Virgin Islands, the National Domestic Violence Hotline provides crisis intervention and immediately connects callers with sources of help in their local community.

(4) The National Domestic Violence Hotline, which was created by the Violence Against Women Act and is located in Austin, Texas, answered its first call on February 21, 1996, and answered its one millionth call on August 4, 2003.

(5) Approximately 60 percent of the callers indicate that calling the Hotline is their first attempt to address a domestic violence situation and that they have not called the police or any other support services.

(6) Between 2000 and 2003, there was a 27 percent increase in call volume.

(7) Due to high call volume and limited resources, approximately 26,000 calls to the Hotline went unanswered in 2002 due to long hold times or busy signals.

(8) Widespread demand for the Hotline service continues. The Department of Justice reported that over 18,000 acts of violence were committed by intimate partners in the United States each day during 2001. An average of 3 women are murdered every day in this Country by their husbands or boyfriends.

(9) Working with outdated telephone and computer equipment creates many challenges for the National Domestic Violence Hotline.

(10) Improving technology infrastructure at the National Domestic Violence Hotline and training advocates, volunteers, and other staff on upgraded technology will drastically increase the Hotline's ability to answer more calls quickly and effectively.

(11) Partnerships between the public sector and the private sector are an effective way of providing necessary technology improvements to the National Domestic Violence Hotline.

(12) The Connections Campaign is a project that unites nonprofit organizations, major corporations, and Federal agencies to launch a major new initiative to help ensure that the National Domestic Violence Hotline can answer every call with upgraded, proficient, and sophisticated technology tools.

SEC. 3. TECHNOLOGY GRANT TO NATIONAL DOMESTIC VIOLENCE HOTLINE.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall award a grant to the National Domestic Violence Hotline.

(b) USE OF FUNDS.—The grant awarded under subsection (a) shall be used to provide technology and telecommunication training and assistance for advocates, volunteers, staff, and others affiliated with the Hotline so that such persons are able to effectively use improved equipment made available through the Connections Campaign.

SEC. 4. RESEARCH GRANT TO STUDY NATIONAL DOMESTIC VIOLENCE HOTLINE.

(a) GRANT AUTHORIZED.—Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, shall award a grant to a university or other research institution with demonstrated experience and expertise with domestic violence issues to conduct a study of the National Domestic Violence Hotline for the purpose of conducting the research described under subsection (c), and for the input, interpretation, and dissemination of research data.

(b) APPLICATION.—Each university or research institution desiring to receive a grant under this section shall submit an application to the Attorney General, at such time, in such manner, and accompanied by such additional information as the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, may reasonably require.

(c) ISSUES TO BE STUDIED.—The study described in subsection (a) shall—

(1) compile statistical and substantive information about calls received by the Hotline since its inception, or a representative sample of such calls, while maintaining the confidentiality of Hotline callers;

(2) interpret the data compiled under paragraph (1)—

(A) to determine the trends, gaps in services, and geographical areas of need; and

(B) to assess the trends and gaps in services to underserved communities and the military community; and

(3) gather other important information about domestic violence.

(d) REPORT.—Not later than 3 years after the date of enactment of this Act, the grantee conducting the study under this section shall submit a report on the results of such study to Congress and the Attorney General.

SEC. 5. GRANT TO RAISE PUBLIC AWARENESS OF DOMESTIC VIOLENCE ISSUES.

(a) GRANT AUTHORIZED.—Not later than 6 months after the submission of the report required under section 4(d), the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, shall award a grant to an experienced organization to conduct a public awareness campaign to increase the public's understanding of domestic violence issues and awareness of the National Domestic Violence Hotline.

(b) APPLICATION.—Each organization desiring to receive a grant under this section shall submit an application to the Attorney General, at such time, in such manner, and accompanied by such additional information as the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, may reasonably require.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated, for each of the fiscal years 2005 and 2006—

(1) $500,000 to carry out section 3;

(2) $250,000 to carry out section 4; and

(3) $800,000 to carry out section 5.

(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended.

(c) NONEXCLUSIVITY.—Nothing in this section shall be construed to limit or restrict the National Domestic Violence Hotline to apply for and obtain Federal funding from any other agency or department or any other Federal grant program.

(d) NO CONDITION ON APPROPRIATIONS.—Amounts appropriated pursuant to subsection (a) shall not be considered amounts appropriated for purposes of the conditions imposed under section 316(g)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(g)(2)).

Mr. BIDEN. Mr. President, I want to relay a telephone number, a number that may not sound familiar but you can be sure is memorized by thousands of women across the country. 1–800–799–SAFE—the number for the National Domestic Violence Hotline. Each month, over 16,000 women and men call the National Domestic Violence Hotline. Open twenty-four hours a day, seven days a week, with a bilingual staff and a TTY-line for the hearing impaired, the National Domestic Violence Hotline provides immediate, informed and confidential assistance to those caught in family violence. Oftentimes, it is the first call a battered woman makes, even before calling the police or a friend.

The Hotline is located in Austin, TX, but answers telephone calls placed anywhere in the United States and the U.S. territories. A distressed caller is connected to a trained advocate who is able to provide crisis intervention counseling, help create a safety plan, directly connect the caller with a local shelter or provide a range of local referral information. Using a massive database listing more than 5,000 services nationally, one of 30 full or part-time advocates puts a caller in touch immediately with local programs offering shelter and direct care.

I want to share with my colleagues two real-life stories from women who have called the Hotline. One caller dialed the Hotline after her boyfriend pulled a gun and threatened to kill her if she left him. Fearing for her life, she fled with her two young children. They ran to a nearby strip mall where she called the Hotline. As she told a Hotline advocate her story, she watched her abuser search for her in every store in the mall. Once a local shelter was contacted, arrangements were made to rescue the woman and her children from their hiding spot in a back alley behind the restaurant.

An immigrant woman who spoke no English called from a community clinic. She had learned that for the past year her abusive husband had been raping their 15-year-old daughter. Her husband had no idea she was calling the Hotline. He had kept her so isolated on the ranch where they lived that she didn't even know her address. While the woman stayed on the line, an advocate contacted the sheriff's office and together they pieced together enough information to figure out her address. The sheriff made plans to confirm the child abuse at the daughter's school, after which the husband would be arrested immediately. After completing the exchange with the sheriff's office, the advocate contacted the nearest shelter and arranged to pick up the woman and her daughter at the clinic.

These are real women who we see every day at work, at the grocery store

and at the school parking lot whose lives have been dramatically changed, in part, by that first call to the National Domestic Violence Hotline. Created by the Violence Against Women Act, the Hotline answered its first call on February 21, 1996, and its one millionth call on August 4, 2003. In the past decade we've witnessed a sea of change in how Americans view domestic violence. It is no longer treated as a private, family matter, but as a public crime. As public awareness has grown—as the Hotline's telephone number is posted on bus billboards and websites, in school offices and doctor's waiting rooms—there has been a dramatic increase in calls. Between 2000 and 2001 alone, call volume increased by 18.5 percent. In 2002, the Hotline answered almost 180,000 calls, an increase of 7.5 percent from the previous year. The Department of Defense recently requested that the Hotline accept calls from military personnel—a move that will certainly increase the call volume substantially.

While the majority of the Hotline's day-to-day operating costs are paid with Federal dollars designated in annual spending bills, funding has not kept pace with the growing call volume and the Hotline's technology and telecommunication needs. This year, the spending bill appropriated only three million dollars to the Hotline. Older equipment, coupled with increased usage, has set the Hotline up to experience frequent problems with the network, data corruption and the lurking threat of a crash in the entire system. The Hotline tries to answer almost 500 calls a day with old computers and servers. Because the system is outdated and the staff is stretched thin, over 26,000 calls last year went unanswered due to long hold times or busy signals.

We need to answer each and every one of the calls to the Hotline. Today I am launching an innovative and far-reaching solution to the Hotline's problems, the Connections Campaign. The Connections Campaign is a public/private partnership that teams up private telecommunication and technology companies with the Federal Government to solve the Hotline's crisis. Under the Connections Campaign, the same companies—Microsoft, Sony, BellSouth, Verizon Wireless, IBM, Nortel Networks, Dell and others—that supply Americans with home computers, cell phones and telephone service are donating hardware and software to the Hotline. Items like mapping software, networked computers, servers, flat-screened monitors and telephone airtime are being pledged to the Hotline. This is just the beginning of a multi-year, multi-million dollar initiative to place the Hotline squarely in the twenty-first century.

On the public side of the partnership, I am proud to introduce the Domestic Violence Connections Campaign Act of 2004 which will provide a million dollars to train and assist the Hotline's advocates so that they may effectively use the improved equipment provided by the Connections Campaign. In addition, the Act creates a new research grant program to be administered by the Attorney General that will review and analyze data generated by the Hotline. Taking into consideration needs for caller confidentiality and security, researchers will study Hotline data to determine the trends, potential gaps in service and geographical areas of need. Within three years of enactment, researchers will release a comprehensive Hotline study to Congress and the Attorney General. Finally, my bill provides an $800,000 grant program for the Hotline to increase public awareness about domestic violence and the Hotline's services.

One hand clapping simply does not make enough noise. Federal, State and local government cannot always supply all the answers and resources to resolve our communities' pressing problems. Today's Connections Campaign recognizes that big problems warrant grand, collaborative solutions. Cooperation between the Federal Government and the private sector is critical to enhance the National Domestic Violence Hotline.

A cornerstone of the Violence Against Women Act was my conviction that ending domestic violence and sexual assault required a coordinated, community response. We worked hard to ensure that emergency room personnel, police officers, victim advocates, shelter directors and court clerks worked together to implement the many mandates of the Violence Against Women Act. The Connections Campaign is Act Two. We are now asking that the corporate community get actively involved to strengthen a key safety net for women and their families, the National Domestic Violence Hotline.

Today's legislation and the kick-off is just the beginning of what I envision to be a lasting connection between the Hotline and the technology and telecommunications community. I look forward to coming back to the Senate floor to inform my colleagues about the new computers, wireless headsets, upgraded software and other technology that could be provided to the Hotline through the Connections Campaign. In the meantime, let me close by commending and expressing my gratitude to Sheryl Cates, the director of the Hotline and her dedicated staff who are providing the first step to safe, new lives for millions of battered women. They are truly doing God's work.

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

By Mr. INHOFE:

S. 2190. A bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person; to the Committee on the Judiciary.

Mr. INHOFE. Madam President, I rise today to introduce the Life at Conception Act. This bill is of utmost importance to future generations in America. Quite simply, it implements equal protection under the Fourteenth Amendment of the Constitution for every born and pre-born person. It protects Americans' right to life by defining the term ''human person'' as an individual at all stages of life, including, but not limited to, the moment of conception.

The Constitution's Fourteenth Amendment grants that no ''state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.'' Furthermore, it grants ''Congress shall have power to enforce, by appropriate legislation, the provisions of this article.'' It is time that we, the Congress, start enforcing this provision, start defending the Constitution, and start defending American lives.

Even the Justices in the 1973 Roe v. Wade decision conceded this point by making the admission: ''If this suggestion of personhood is established, the appellant's case [Roe], of course, collapses, for the fetus' right to life is then guaranteed specifically by the [Fourteenth] Amendment.'' Our Constitution is designed to protect the rights of all Americans, and give them the right to live and succeed. Right now, significant portions of Americans, who have no voice, are being killed, despite the explicit protections in the Fourteenth Amendment. Since 1973, more than 44 million babies have been sentenced to death without trial. We cannot tolerate this atrocity.

Additionally, a 1999 Wirthlin poll found that 62 percent of Americans support legal abortion only in cases of rape, incest, or if the mother's life is in danger. How can we stand by and let so many children die even when public opinion is on our side? It is our role as legislators to uphold and enforce the Constitution, and it is our role as humans to defend those who cannot defend themselves. I urge my colleagues to follow their conscience, support this bill, and do what is right for America and for humanity.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. KOHL, and Mr. FEINGOLD):

S. 2192. A bill to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise to introduce the Cooperative Research and Technology Enhancement Act of 2004 (the CREATE Act). This bill makes a narrow, but important change in our patent laws to ensure that the American public will benefit from the results of collaborative research efforts that combine the erudition of great public universities with the entrepreneurial savvy of private enterprises.

Together, our universities and private enterprises have created a culture of innovation that has become America's greatest asset in an increasingly global economy. This culture of innovation encourages fundamental research—knowledge for its own sake. It also encourages the hard work needed to incorporate new advances in technology into actual products that reach the market and benefit consumers.

While universities and private entrepreneurs can play complementary roles in our innovation economy, new opportunities to innovate arise when public institutions and private entrepreneurs combine their respective forms of expertise in collaborative, joint research efforts. President Lincoln would surely agree that this type of joint private-public research effort is well-suited to add ''the fuel of interest to the fire of genius in the production of new and useful things.''

As a result, we have long realized the enormous value of these joint research efforts, and we have long realized that their potential cannot be realized unless their participants can benefit from the intellectual property rights generated by such research. Unfortunately, the literal language of Section 102(g) of the Patent Act suggests that non-public information known to some members of a private-public research team can constitute ''prior art'' that may make the final results of the team research obvious, and thus not patentable. Because non-public information does not usually constitute ''prior art'' under the Patent Act, the potentially disparate treatment of such information crates a disincentive for entrepreneurs and public institutions to collaborate in joint research efforts.

I believe that we must encourage—not discourage—public institutions and private entrepreneurs to combine their respective talents in joint research efforts. Indeed, Congress committed itself to this principle when it passed the Bayh-Dole Amendments to the Patent Act. The CREATE Act will simply conform the present language of the Patent Act to the intent that has always animated it.

For the above reasons, I urge my colleagues to support the Cooperative Research and Technology Enhancement Act of 2004. I also thank my colleagues in the House Committee on the Judiciary, particularly Subcommittee Chairman LAMAR SMITH and Chairman JAMES SENSENBRENNER, for their groundbreaking work on this important issue.

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. 2192

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 ''Cooperative Research and Technology Enhancement (CREATE) Act of 2004''.

SEC. 2. COLLABORATIVE EFFORTS ON CLAIMED INVENTIONS.

Section 103(c) of title 35, United States Code, is amended to read as follows:

''(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

''(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if—

''(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;

''(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

''(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

''(3) For purposes of paragraph (2), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.''.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall apply to any patent granted on or after the date of the enactment of this Act.

(b) SPECIAL RULE.—The amendments made by this Act shall not affect any final decision of a court or the United States Patent and Trademark Office rendered before the date of the enactment of this Act, and shall not affect the right of any party in any action pending before the United States Patent and Trademark Office or a court on the date of the enactment of this Act to have that party's rights determined on the basis of the provisions of title 35, United States Code, in effect on the day before the date of the enactment of this Act.

Mr. LEAHY. Madam President, the United States has from its inception recognized the importance of intellectual property laws in fostering innovation, and vested in Congress the responsibility of crafting laws that ensure that those who produce inventions are able to reap economic rewards for their efforts. Today, Senator HATCH, Senator KOHL, Senator FEINGOLD, and I introduce the ''Cooperative Research and Technology Enhancement, CREATE, Act of 2004,'' legislation that will provide a needed remedy to one aspect of our nation's patent laws.

When Congress passed the Bayh-Dole Act in 1980, the law encouraged private entities and not-for-profits such as universities to form collaborative partnerships in order to spur innovation. Prior to the enactment of this law, universities were issued fewer than 250 patents each year. That this number has in recent years surpassed two thousand is owed in large measure to the Bayh-Dole Act. The innovation this law encouraged has contributed billions of dollars annually to the United States economy and has produced hundreds of thousands of jobs.

However, one component of the Bayh-Dole Act, when read literally, runs contrary to the intent of that legislation. In 1999, the United States Court of Appeal for the Federal Circuit ruled, in Oddzon Products, Inc. v. Just Toys, Inc., that non-public information may in certain cases be considered ''prior art'' a standard which generally prevents an inventor from obtaining a patent. Thus some collaborative teams that the Bayh-Dole Act was intended to encourage have been unable to obtain patents for their efforts. The result is a disincentive to form this type of partnership, which could have a negative impact on the U.S. economy and hamper the development of new creations.

However, the Federal circuit in its ruling invited Congress to better conform the language of the Bayh-Dole Act to the intent of the legislation. The ''CREATE Act'' does exactly that by ensuring that non-public information is not considered ''prior art'' when the information is used in a collaborative partnership under the Bayh-Dole Act. The bill that my colleagues and I are today offering also includes strict evidentiary burdens to ensure that the legislation is tailored narrowly in order to solely fulfill the intent of the Bayh-Dole Act. I ask that my colleagues support the ''Cooperative Research and Technology Enhancement Act of 2004.''

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

S. 2193. A bill to improve small business loan programs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise to introduce a bill to revitalize a loan program crucial to the growth of small businesses in this country, and therefore crucial to our country's economy. This bill, the ''Smart Business Loan Revitalization Act of 2004,'' provides improvements to the Small Business Administration's largest business loan program, the ''Section 7(a)'' program.

This program proves that a small amount of government backing can greatly enhance private-sector financing for small businesses, and that the economic benefits can reverberate throughout the economy at large. More than $46.6 billion in 7(a) loans have been provided to small businesses over the last five Fiscal Years. This financing has helped small businesses to create or retain nearly 2 million more jobs over this five-year period.

Today, we are losing thousands of American jobs to outsourcing and offshore manufacturing. We measure net job increases in the ''few thousands.'' Given these circumstances, it is clearly to our advantage, and to the advantage

of the American people, to support improvements to any program that has already demonstrated an ability to create or retain nearly 400,000 American jobs a year.

Last year this program provided $11.2 billion in loans to small business owners and employees in towns and communities across America. This year, however, the SBA only requested a program size of $9.3 billion. The fact that the SBA received a larger appropriation than the $9.3 billion it requested is powerful testament to the popularity of this program among small businesses. The SBA received sufficient appropriations, $79 million, coupled with $22 million in carried-over funds, to allow for a $9.55 billion program.

Like last year, however, the demand for program funds in the first few months of Fiscal Year 2004 suggested that requests for the entire year would most likely exceed $11 billion. As a result, in January, 2004, the SBA shut the program down, and then reopened it with a diminished loan cap of $750,000—37.5 percent of the $2 million maximum previously available. Faced with these restrictions, small businesses have urged Congress and the Administration to make the program fully operational for the rest of 2004.

To this end, I have worked with a coalition of small businesses and lenders to construct a plan to improve the program for the remainder of this Fiscal Year. The plan would allow lenders to help alleviate the funding shortfall. It would benefit small businesses and lenders by allowing loans larger than $750,000, and by allowing loans with multiple participations.

The bill would achieve these goals in three ways. First, lenders would return to the SBA a fee of 0.25 percent (or one-quarter of one percent) of new loans under $150,000, a fee that lenders are currently permitted to retain. Lenders may only retain this fee for loans of $150,000 or less—for loans greater than that size, lenders must return the fee to the SBA, as they have been required to do since the inception of the program. This proposal was first made by the SBA, as part of a larger plan the SBA recently submitted to Congress.

Second, a lender fee on new loans would be increased from 0.25 percent, one-quarter of one percent, to 0.35 percent. Finally, lenders would be permitted to provide small businesses with financing packages that include a 7(a) loan portion and a non-7(a), a strictly commercial portion, if the lenders paid the normal fees on the 7(a) loan portion and a 0.50 percent fee on the non-7(a) portion. Prior to January 2004, the SBA permitted this type of financing, but without receiving any fee income for the non-7(a) portion, and without an upper limit on the total financing, which I have set at $4 million.

The ability of small businesses to receive loans larger than $750,000 is a prerequisite to reviving the American economy. These loans provide needed capital for significant purchases and development by small businesses. More 7(a) loans represent longer-term loans than similar products available in the private capital market, and this allows small businesses to repay their 7(a) loans more gradually. I applaud the SBA for its desire to make more small loans to entrepreneurs without large capital needs, but I also urge the SBA to remember those entrepreneurs and small businesses who need more financing to strengthen and grow their enterprise, and to hire more employees. After encouraging entrepreneurs to start new small businesses, we cannot afford to forget their small businesses, or profess an inability to assist them when they need additional financing to grow.

The benefits of this program are clear. It has the ability to help entrepreneurs to create jobs, to fulfill their dreams, and to support their families—all of this while building the kinds of energetic businesses our economy so desperately needs. The demands for this program is also clear. Small businesses have submitted more applications than the program could handle so far this year. The willingness of lenders to pay increased fees to meet the demand from small businesses for 7(a) loans is clear evidence the program works and remains attractive to lenders.

The question we must answer now is whether we are willing to respond to small businesses and lenders and implement a solution which they have asked for, and which promises dividends for all involved, or whether we will ignore their requests, and miss an opportunity to transform a loan program that sustains almost 400,000 jobs a year into an initiative capable of creating two, three, four or even five times that amount. I don't want to miss that opportunity, my constituents in Maine can't afford to miss that opportunity, and I don't believe that your constituents can either. Almost every company listed today on the American Stock Exchange began as a small business. In the short term, this bill may save American jobs. But in the long term, it may save the American economy.

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. 2193

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 ''Small Business Loan Revitalization Act'' .

SEC. 2. COMBINATION FINANCING.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

''(31) COMBINATION FINANCING.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'combination financing' means financing comprised of a loan guaranteed under this subsection and a commercial loan; and

''(ii) the term 'commercial loan' means a loan of which no portion is guaranteed by the Federal government.

''(B) APPLICATION.—A loan guarantee under this subsection on behalf of a small business concern, which is approved within 120 days of the date on which a commercial loan is obtained by the same small business concern, shall be subject to the provisions of this paragraph.

''(C) COMMERCIAL LOAN AMOUNT.—A small business concern shall not be eligible to receive combination financing under this paragraph unless the commercial loan obtained by the small business concern does not exceed $2,000,000.

''(D) COMMERCIAL LOAN PROVISIONS.—The commercial loan obtained by the small business concern—

''(i) may be made by the participating lender that is providing financing under this subsection or by a different lender;

''(ii) may be secured by a senior lien; and

''(iii) may be made by a lender in the Preferred Lenders Program, if applicable.

''(E) COMMERCIAL LOAN FEE.—A one-time fee in an amount equal to 0.5 percent of the amount of the commercial loan shall be paid by the lender to the Administration if the commercial loan has a senior credit position to that of the loan guaranteed under this subsection. All proceeds from the loan guaranteed under this subsection shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Administration of guaranteeing loans under this subsection.

''(F) DEFERRED PARTICIPATION LOAN ELIGIBILITY.—

''(i) MAXIMUM AMOUNT.—A small business concern may not receive combination financing under this paragraph in an amount greater than $4,000,000.

''(ii) NET AMOUNT.—The net amount of the deferred participation share shall not exceed the maximum amount of a net guarantee provided under paragraph (3)(A).

''(G) DEFERRED PARTICIPATION LOAN SECURITY.—A loan guaranteed under this subsection may be secured by a subordinated lien.

''(H) AVAILABILITY.—Combination financing shall be available under this paragraph notwithstanding any maximum limitation on loans imposed by the Administration.''.

(b) SUNSET DATE.—The amendment made by subsection (a) shall take effect on the first day after the date of enactment of this Act and is repealed on October 1, 2004.

SEC. 3. LOAN GUARANTEE FEES.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (18)(B), by adding at the end the following: ''This subparagraph shall not apply to any loan approved during the period beginning on the first day after the date of enactment of paragraph (23)(A)(iii) and ending on September 30, 2004.''; and

(2) in paragraph (23), by amending subparagraph (A) to read as follows:

''(A) PERCENTAGE.—

''(i) IN GENERAL.—With respect to each loan guaranteed under this subsection, the Administrator shall, in accordance with such terms and procedures as the Administrator shall establish by regulation, assess and collect an annual fee in an amount equal to 0.5 percent of the outstanding balance of the deferred participation share of the loan.

''(ii) FIRST TEMPORARY PERCENTAGE.—With respect to loans approved during the period beginning on October 1, 2002 and ending on the date of enactment of this clause, the annual fee assessed and collected under clause (i) shall be equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.

''(iii) SECOND TEMPORARY PERCENTAGE.—During the period beginning on the first day after the date of enactment of this clause and ending on September 30, 2004, the annual fee assessed and collected under clause (i) shall be equal to 0.35 percent of the outstanding balance of the deferred participation share of the loan.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day after the date of enactment of this Act and are repealed on October 1, 2004.

SEC. 4. RECONSIDERATION OF LOAN APPLICATIONS REJECTED BASED ON LOAN AMOUNT.

(a) CONSIDERATION OF LOAN APPLICATION SUBMITTED BEFORE JANUARY 8, 2004.—Beginning on the first day after the date of enactment of this Act, the Small Business Administration shall reconsider any application submitted on or after December 23, 2003 and before January 8, 2004, under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) that was rejected based on the loan amount requested before considering any other application if the applicant is otherwise eligible for financial assistance under that section.

(b) EXPORT WORKING CAPITAL.—Any small business that received financing under section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)) before January 1, 2004, and requests a renewal of such financing, shall have their request approved regardless of the size of such financing (subject to the limitations in section 7(a)(3) of such Act) if the small business is otherwise eligible for such financing under that section.

(c) MAXIMUM LOAN AMOUNT.—Ten days after the date of enactment of this Act, the Small Business Administration shall allow loans under section 7 of the Small Business Act (15 U.S.C. 636) up to the maximum amount permitted under the Small Business Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 317—RECOGNIZING THE IMPORTANCE OF INCREASING AWARENESS OF AUTISM SPECTRUM DISORDERS, SUPPORTING PROGRAMS FOR INCREASED RESEARCH AND IMPROVED TREATMENT OF AUTISM, AND IMPROVING TRAINING AND SUPPORT FOR INDIVIDUALS WITH AUTISM AND THOSE WHO CARE FOR INDIVIDUALS WITH AUTISM

Mr. HAGEL submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 317

Whereas the Autism Society of America, Cure Autism Now, the National Alliance for Autism Research, Unlocking Autism, and numerous other organizations commemorate April as National Autism Awareness Month;

Whereas autism is a developmental disorder that is typically diagnosed during the first 3 years of life, robbing individuals of their ability to communicate and interact with others;

Whereas autism affects an estimated 1 in every 250 children in America;

Whereas autism is 4 times more likely in boys than in girls, and can affect anyone, regardless of race, ethnicity, or other factors;

Whereas the cost of specialized treatment in a developmental center for people with autism is approximately $80,000 per individual per year;

Whereas the cost of special education programs for school-aged children with autism is often more than $30,000 per individual per year;

Whereas the cost nationally of caring for persons affected by autism is estimated at more than $90,000,000,000 per year; and

Whereas despite the fact that autism is one of the most common developmental disorders, many professionals in the medical and educational fields are still unaware of the best methods to diagnose and treat the disorder: Now, therefore, be it

Resolved, That the Senate—

(1) supports the establishment of April as National Autism Awareness Month;

(2) recognizes and commends the parents and relatives of children with autism for their sacrifice and dedication in providing for the special needs of children with autism and for absorbing significant financial costs for specialized education and support services;

(3) supports the goal of increasing Federal funding for aggressive research to learn the root causes of autism, identify the best methods of early intervention and treatment, expand programs for individuals with autism across their lifespan, and promote understanding of the special needs of people with autism;

(4) commends the Department of Health and Human Services for the swift implementation of the Children's Health Act of 2000, particularly for establishing 4 ''Centers of Excellence'' at the Centers for Disease Control and Prevention to study the epidemiology of autism and related disorders and the proposed ''Centers of Excellence'' at the National Institutes of Health for autism research;

(5) stresses the need to begin early intervention services soon after a child has been diagnosed with autism, noting that early intervention strategies are the primary therapeutic options for young people with autism, and early intervention significantly improves outcomes for people with autism and can reduce the level of funding and services needed later in life;

(6) supports the Federal Government's nearly 30-year-old commitment to provide States with 40 percent of the costs needed to educate children with disabilities under part B of the Individuals with Disabilities Education Act (IDEA);

(7) recognizes the shortage of appropriately trained teachers who have the skills and support necessary to teach, assist, and respond to special needs students, including those with autism, in our school systems; and

(8) recognizes the importance of worker training programs that are tailored to the needs of developmentally disabled persons, including those with autism, and notes that people with autism can be, and are, productive members of the workforce if they are given appropriate support, training, and early intervention services.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2719. Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. CORZINE, Mr. LEVIN, Mr. DODD, Ms. STABENOW, Mrs. CLINTON, Mr. KERRY, Mr. HARKIN, Mr. SCHUMER, Mr. PRYOR, Mr. REED, Mr. KOHL , Mr. DAYTON, Ms. LANDRIEU, Mr. SARBANES, Mr . BINGAMAN, and Mrs. LINCOLN) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

SA 2720. Mr. BIDEN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. KENNEDY, Mr. SARBANES, Mr. ROCKEFELLER, Mr. CORZINE, Ms. STABENOW, Mr. HARKIN, Mrs. BOXER, Mr. DURBIN, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2721. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2722. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2723. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2724. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2725. Mr. KENNEDY (for himself, Mr. DODD, Mrs. CLINTON, Mr. CORZINE, Ms. STABENOW, Mr. LAUTENBERG, Mr. SCHUMER, Mr. REED, Ms. MIKULSKI, Mr. KOHL, Mrs. LINCOLN, Mr. LEVIN, Mr. LIEBERMAN, and Mr. REID) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2726. Mr. BIDEN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. KENNEDY, Mr. SARBANES, Mr. ROCKEFELLER, Mr. CORZINE, Ms. STABENOW, Mr. HARKIN, Mrs. BOXER, Mr. DURBIN, Mr. KOHL, and Mr. DODD) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2727. Mr. SANTORUM (for himself, Mr. CONRAD, and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2728. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2729. Mr. LEVIN (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2730. Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2731. Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mr. BUNNING, Mr. LEAHY, Mrs. CLINTON, Mr. DEWINE, Mr. CHAMBLISS, Mr. ALLEN, Mrs. MURRAY, Mr. KENNEDY, Mrs. LINCOLN, Mr. DAYTON, Ms. MURKOWSKI, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. MILLER) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2732. Mrs. HUTCHISON (for herself, Ms. LANDRIEU, Mr. BREAUX, and Mr. LOTT) submitted an amendment intended to be proposed by her to the concurrent resolution S.