Mr. BREAUX, Mr. THURMOND, Mr. CHAFEE, Mr. SMITH of New Hampshire, Mr. SARBANES, Mr. COVERDELL, Mr. CLELAND, Mr. GREGG, Mr. REED, Mr. KERRY, Mr. HELMS, Mr. BYRD, Mr. TORRICELLI, Mr. EDWARDS, Mr. LIEBERMAN, Mr. ASHCROFT, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. BIDEN, Mr. FIRST, Mr. BOND, and Mr. THOMPSON):

S.J. Res. 22. A joint resolution to reauthorize, and modify the conditions for, the consent of Congress to the Northeast Interstate Diary Compact and to grant the consent of Congress to the Southern Diary Compact; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURBIN (for himself and Mr. FITZGERALD):

S. Res. 86. A resolution supporting the National Railroad Hall of Fame, Inc. of Galesburg, Illinois, in its endeavor to erect a monument known as the National Railroad Hall of Fame; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself, Mr. BOND, and Mr. MOYNIHAN):

S. Res. 87. A resolution commemorating the 60th Anniversary of the International Visitors Program; to the Committee on Foreign Relations.

By Mr. SMITH of Oregon (for himself, Mr. WELLSTONE, Mr. THOMAS, Mr. SARBANES, and Mr. BROWNBACK):

S. Con. Res. 30. A concurrent resolution recognizing the sacrifice and dedication of members of America's non-governmental organizations and private volunteer organizations throughout their history and specifically in answer to their courageous response to recent disasters in Central America and Kosovo; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENNETT (for himself, Mr. MACK, Mr. MURKOWSKI, and Mr. SANTORUM):

S. 881. A bill to ensure confidentiality with respect to medical records and health care-related information, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE MEDICAL INFORMATION PROTECTION ACT OF 1999

Mr. BENNETT. Mr. President, I rise today to introduce the Medical Information Protection Act of 1999. Trying to find the right balance between legitimate uses of health care data and the need for privacy has been a very difficult road to go down; however, I feel that great progress has been made and that the legislation that I am introducing strikes the right balance between the desire the patient has for increased confidentiality and the need our health care system has for information that will enable it to provide a higher quality of care. I am pleased that Senators MACK, MURKOWSKI and SANTORUM have joined me as co-sponsors of this legislation and I am hopeful that a number of other senators will soon join us as well. In addition, I am pleased to include in the record a list of groups that have come out in support of this legislation. I am grateful for the many comments and suggestions I have received from a wide variety of organizations and individuals.

Most of us wrongly assume that our personal health information is protected under federal law. It is not. Federal law protects the confidentiality of our video rental records, and federal law ensures us access to information about us such as our credit history. However, there is no current federal law which will protect the confidentiality of our medical information against unauthorized use and ensure us access to that same sensitive information about us. This is a circumstance that I believe should and must change.

At this time, the only protection of an individual's personal medical information is under state law. These state laws, where they exist, are incomplete, inconsistent and in most cases inadequate. At last check, there were approximately 35 states with 35 unique laws governing the use and disclosure of medical information. Even in those states where there are existing laws, there is no penalty for releasing and disseminating the most private information about our health and the health care we have received.

As our health care delivery systems continue to expand across state lines, efficiency, research advances and the delivery of the highest quality of care possible depend upon the flow of information. This year alone, a large number of states have either considered passing new legislation or have attempted to modify existing laws. As states act to meet the concerns of their residents, the patchwork of state laws become ever more complex. If this trend continues, the high quality care and research breakthroughs we have come to expect and demand from our health care system would be jeopardized because health care organizations would be forced to track and comply with multiple, conflicting and increasingly complex state laws.

Clearly, in today's world, health information must be permitted to flow across state lines if we are to expect the highest level of health care. For example, in Utah, Intermountain Health Care (IHC), the largest care provider based in my state also provides care in four other western states. IHC currently maintains secure databases of patient information which each of its member facilities in Utah, Nevada, Idaho and Wyoming draw upon to provide and improve care. Requiring them to comply with multiple state laws does not add to the quality of health care they provide, but does add to the cost of health care they provide. Many IHC patients live in one state yet their closest hospital, clinic or physicians office is in another state. I am sure this example appears throughout the country in one form or another given the consolidation of the health care industry and the large percentage of us who live near state lines.

In addition, we are seeing an emergence of telemedicine and health care services over the internet that adds another degree of complexity to this entire circumstance. Technology is not only improving the quality of care and improving patient access to services, it is also making the need for one strong federal law more critical. The majority of providers, insurers, health care professionals, researchers and patients agree that there is an increasingly urgent need for uniformity in our laws that govern access to and disclosure of personal health information.

Mr. President, I remind my colleagues that if we do not act by August of 1999 the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires the Secretary of Health and Human Services (HHS) to put in to place regulations governing health information in an electronic format. Thus, we could have a circumstance where paper based records and electronic based records are treated differently. I do not believe Congress wants to protect one form of medical records and not another, and I do not think that we should permit the Secretary of Health and Human Services to implement regulations without further direction from the Congress. Congress should not neglect its responsibility and duty to legislate and provide appropriate direction to the executive branch. I urge my colleagues to work with me to pass legislation that would give HHS clear direction and provide each American with greater protection of their health information.

Mr. President, I ask unanimous consent that the bill and a list of groups supporting this legislation be included in the RECORD.

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

S. 881

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 ''Medical Information Protection Act of 1999''.

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

SEC. 2. FINDINGS.

The Congress finds that—

(1) individuals have a right of confidentiality with respect to their personal health information and records;

(2) with respect to information about medical care and health status, the traditional right of confidentiality is at risk;

(3) an erosion of the right of confidentiality may reduce the willingness of patients to confide in physicians and other practitioners, thus jeopardizing quality health care;

(4) an individual's confidentiality right means that an individual's consent is needed to disclose his or her protected health information, except in limited circumstances required by the public interest;

(5) any disclosure of protected health information should be limited to that information or portion of the medical record necessary to fulfill the purpose of the disclosure;

(6) the availability of timely and accurate personal health data for the delivery of health care services throughout the Nation is needed;

(7) personal health care data is essential for medical research;

(8) public health uses of personal health data are critical to both personal health as well as public health; and

(9) confidentiality of an individual's health information must be assured without jeopardizing the pursuit of clinical and epidemiological research undertaken to improve health care and health outcomes and to assure the quality and efficiency of health care.

SEC. 3. PURPOSES.

The purpose of this Act is to—

(1) establish strong and effective mechanisms to protect against the unauthorized and inappropriate disclosure of protected health information that is created or maintained as part of health care treatment, diagnosis, enrollment, payment, plan administration, testing, or research processes;

(2) promote the efficiency and security of the health information infrastructure so that members of the health care community may more effectively exchange and transfer health information in a manner that will ensure the confidentiality of protected health information without impeding the delivery of high quality health care; and

(3) establish strong and effective remedies for violations of this Act.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) ACCREDITING BODY.—The term ''accrediting body'' means a national body, committee, organization, or institution (such as the Joint Commission on Accreditation of Health Care Organizations or the National Committee for Quality Assurance) that has been authorized by law or is recognized by a health care regulating authority as an accrediting entity or any other entity that has been similarly authorized or recognized by law to perform specific accreditation, licensing or credentialing activities.

(2) AGENT.—The term ''agent'' means a person, including a contractor, who represents and acts for another under the contract or relation of agency, or whose function is to bring about, modify, effect, accept performance of, or terminate contractual obligations between the principal and a third person.

(3) COMMON RULE.—The term ''common rule'' means the Federal policy for protection of human subjects from research risks originally published as 56 Federal Register 28.025 (1991) as adopted and implemented by a Federal department or agency.

(4) DISCLOSE AND DISCLOSURE.—

(A) DISCLOSE.—The term ''disclose'' means to release, transfer, provide access to, or otherwise divulge protected health information to any person other than the individual who is the subject of such information.

(B) DISCLOSURE.—

(i) IN GENERAL.—The term ''disclosure'' refers to a release, transfer, provision for access to, or communication of information as described in subparagraph (A).

(ii) USE.—The use of protected health information by an authorized person and its agents shall not be considered a disclosure for purposes of this Act if the use is consistent with the purposes for which the information was lawfully obtained. Using or providing access to health information in the form of nonidentifiable health information shall not be construed as a disclosure of protected health information.

(5) EMPLOYER.—The term ''employer'' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(6) HEALTH CARE.—The term ''health care'' means—

(A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, including appropriate assistance with disease or symptom management and maintenance, counseling, assessment, service, or procedure—

(i) with respect to the physical or mental condition of an individual; or

(ii) affecting the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs, or any other tissue; or

(B) pursuant to a prescription or medical order any sale or dispensing of a drug, device, equipment, or other health care related item to an individual, or for the use of an individual.

(7) HEALTH CARE OPERATIONS.—The term ''health care operations'' means services provided by or on behalf of a health plan or health care provider for the purpose of carrying out the management functions of a health care provider or health plan, or implementing the terms of a contract for health plan benefits, including—

(A) coordinating health care, including health care management of the individual through risk assessment and case management;

(B) conducting quality assessment and improvement activities, including outcomes evaluation, clinical guideline development, and improvement;

(C) reviewing the competence or qualifications of health care professionals, evaluating provider performance, and conducting health care education, accreditation, certification, licensing, or credentialing activities;

(D) carrying out utilization review activities, including precertification and preauthorization of services, and health plan rating and insurance activities, including underwriting, experience rating and reinsurance; and

(E) conducting or arranging for auditing services, including fraud detection and compliance programs.

(8) HEALTH CARE PROVIDER.—The term ''health care provider'' means a person, who with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person who is licensed, certified, registered, or otherwise authorized by Federal or State law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession;

(B) a Federal, State, employer sponsored or other privately sponsored program that directly provides items or services that constitute health care to beneficiaries; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(9) HEALTH OVERSIGHT AGENCY.—The term ''health oversight agency'' means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person who performs or oversees the performance of an assessment, evaluation, determination, or investigation, relating to the licensing, accreditation, certification, or credentialing of health care providers; or

(B) a person who—

(i) performs or oversees the performance of an audit, assessment, evaluation, determination, or investigation relating to the effectiveness of, compliance with, or applicability of, legal, fiscal, medical, or scientific standards or aspects of performance related to the delivery of health care; and

(ii) is a public agency, acting on behalf of a public agency, acting pursuant to a requirement of a public agency, or carrying out activities under a Federal or State law governing the assessment, evaluation, determination, investigation, or prosecution described in subparagraph (A).

(10) HEALTH PLAN.—The term ''health plan'' means any health insurance issuer, health insurance plan, including any hospital or medical service plan, dental or other health service plan or health maintenance organization plan, provider sponsored organization, or other program providing or arranging for the provision of health benefits. Such term does not include any policy, plan or program to the extent that it provides, arranges or administers health benefits pursuant to a program of workers compensation or automobile insurance.

(11) HEALTH RESEARCH AND HEALTH RESEARCHER.—

(A) HEALTH RESEARCH.—The term ''health research'' means a systematic investigation of health (including basic biological processes and structures), health care, or its delivery and financing, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge concerning human health, health care, or health care delivery.

(B) HEALTH RESEARCHER.—The term ''health researcher'' means a person involved in health research, or an officer, employee, or agent of such person.

(12) KEY.—The term ''key'' means a method or procedure used to transform nonidentifiable health information that is in a coded or encrypted form into protected health information.

(13) LAW ENFORCEMENT INQUIRY.—The term ''law enforcement inquiry'' means a lawful investigation or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant to such a statute.

(14) LIFE INSURER.—The term ''life insurer'' means life insurance company as defined in section 816 of the Internal Revenue Code of 1986 .

(15) NONIDENTIFIABLE HEALTH INFORMATION.—The term ''nonidentifiable health information'' means protected health information from which personal identifiers, that directly reveal the identity of the individual who is the subject of such information or provide a direct means of identifying the individual (such as name, address, and social security number), have been removed, encrypted, or replaced with a code, such that the identity of the individual is not evident without (in the case of encrypted or coded information) use of key.

(16) ORIGINATING PROVIDER.—The term ''originating provider'' means a health care provider who initiates a treatment episode, such as prescribing a drug, ordering a diagnostic test, or admitting an individual to a health care facility. A hospital or nursing facility is the originating provider with respect to protected health information created or received as part of inpatient or outpatient treatment provided in such settings.

(17) PAYMENT.—The term ''payment'' means—

(A) the activities undertaken by—

(i) or on behalf of a health plan to determine its responsibility for coverage under the plan; or

(ii) a health care provider to obtain payment for items or services provided to an individual, provided under a health plan, or provided based on a determination by the health plan of responsibility for coverage under the plan; and

(B) activities undertaken as described in subparagraph (A) including—

(i) billing, claims management, medical data processing, other administrative services, and actual payment;

(ii) determinations of coverage or adjudication of health benefit or subrogation claims; and

(iii) review of health care services with respect to coverage under a health plan or justification of charges.

(18) PERSON.—The term ''person'' means a government, governmental subdivision, agency or authority; corporation; company; association; firm; partnership; society; estate; trust; joint venture; individual; individual representative; tribal government; and any other legal entity.

(19) PROTECTED HEALTH INFORMATION.—The term ''protected health information'' with respect to the individual who is the subject of such information means any information which identifies such individual, whether oral or recorded in any form or medium, that—

(A) is created or received by a health care provider, health plan, health oversight agency, public health authority, employer, life insurer, school or university;

(B) relates to the past, present, or future physical or mental health or condition of an individual (including individual cells and their components);

(C) is derived from—

(i) the provision of health care to the individual; or

(ii) payment for the provision of health care to the individual; and

(D) is not nonidentifiable health information.

(20) PUBLIC HEALTH AUTHORITY.—The term ''public health authority'' means an authority or instrumentality of the United States, a tribal government, a State, or a political subdivision of a State that is—

(A) primarily responsible for health or welfare matters; and

(B) primarily engaged in activities such as incidence reporting, public health surveillance, and investigation or intervention.

(21) SCHOOL OR UNIVERSITY.—The term ''school or university'' means an institution or place accredited or licensed for purposes of providing for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges united under one corporate organization or government.

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

(23) SIGNED.—The term ''signed'' refers to documentation of assent in any medium, whether ink, digital or biometric signatures, or recorded oral authorizations.

(24) STATE.—The term ''State'' includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(25) TREATMENT.—The term ''treatment'' means the provision of health care by a health care provider.

(26) WRITING AND WRITTEN.—

(A) WRITING.—The term ''writing'' means any form of documentation, whether paper, electronic, digital, biometric or tape recorded.

(B) WRITTEN.—The term ''written'' includes paper, electronic, digital, biometric and tape-recorded formats.

TITLE I—INDIVIDUAL'S RIGHTS

Subtitle A—Review of Protected Health Information by Subjects of the Information

SEC. 101. INSPECTION AND COPYING OF PROTECTED HEALTH INFORMATION.

(a) GENERAL RULES.—

(1) COMPLIANCE WITH SECTION.—At the request of an individual who is the subject of protected health information and except as provided in subsection (c), a health care provider, a health plan, employer, life insurer, school, or university shall arrange for inspection or copying of protected health information concerning the individual, including records created under section 102, as provided for in this section.

(2) AVAILABILITY OF INFORMATION THROUGH ORIGINATING PROVIDER.—Protected health information that is created or received by a health plan or health care provider as part of treatment or payment shall be made available for inspection or copying as provided for in this title through the originating provider.

(3) OTHER ENTITIES.—An employer, life insurer, school, or university that creates or receives protected health information in performing any function other than providing treatment, payment, or health care operations with respect to the individual who is the subject of such information, shall make such information available for inspection or copying as provided for in this title, or through any provider designated by the individual.

(4) PROCEDURES.—The person providing access to information under this title may set forth appropriate procedures to be followed for such inspection or copying and may require an individual to pay reasonable costs associated with such inspection or copying.

(b) SPECIAL CIRCUMSTANCES.—If an originating provider, its agent, or contractor no longer maintains the protected health information sought by an individual pursuant to subsection (a), a health plan or another health care provider that maintains such information shall arrange for inspection or copying.

(c) EXCEPTIONS.—Unless ordered by a court of competent jurisdiction, a person acting pursuant to subsection (a) or (b) is not required to permit the inspection or copying of protected health information if any of the following conditions are met:

(1) ENDANGERMENT TO LIFE OR SAFETY.—The person determines that the disclosure of the information could reasonably be expected to endanger the life or physical safety of any individual.

(2) CONFIDENTIAL SOURCE.—The information identifies, or could reasonably lead to the identification of, a person who provided information under a promise of confidentiality to a health care provider concerning the individual who is the subject of the information.

(3) INFORMATION COMPILED IN ANTICIPATION OF OR IN CONNECTION WITH A FRAUD INVESTIGATION OR LITIGATION.—The information is compiled principally—

(A) in anticipation of or in connection with a fraud investigation, an investigation of material misrepresentation in connection with an insurance policy, a civil, criminal, or administrative action or proceeding; or

(B) for use in such action or proceeding.

(4) INVESTIGATIONAL INFORMATION.—The protected health information was created, received or maintained by a health researcher as provided in section 208.

(d) DENIAL OF A REQUEST FOR INSPECTION OR COPYING.—If a person described in subsection (a) or (b) denies a request for inspection or copying pursuant to subsection (c), the person shall inform the individual in writing of—

(1) the reasons for the denial of the request for inspection or copying;

(2) the availability of procedures for further review of the denial; and

(3) the individual's right to file with the person a concise statement setting forth the request for inspection or copying.

(e) STATEMENT REGARDING REQUEST.—If an individual has filed a statement under subsection (d)(3), the person in any subsequent disclosure of the portion of the information requested under subsection (a) or (b)—

(1) shall include a notation concerning the individual's statement; and

(2) may include a concise statement of the reasons for denying the request for inspection or copying.

(f) INSPECTION AND COPYING OF SEGREGABLE PORTION.—A person described in subsection (a) or (b) shall permit the inspection and copying of any reasonably segregable portion of a record after deletion of any portion that is exempt under subsection (c).

(g) DEADLINE.—A person described in subsection (a) or (b) shall comply with or deny, in accordance with subsection (d), a request for inspection or copying of protected health information under this section not later than 60 days after the date on which the person receives the request.

(h) RULES OF CONSTRUCTION.—

(1) AGENTS.—An agent of a person described in subsection (a) or (b) shall not be required to provide for the inspection and copying of protected health information, except where—

(A) the protected health information is retained by the agent; and

(B) the agent has been asked in writing by the person involved to fulfill the requirements of this section.

(2) NO REQUIREMENT FOR HEARING.—This section shall not be construed to require a person described in subsection (a) or (b) to conduct a formal, informal, or other hearing or proceeding concerning a request for inspection or copying of protected health information.

SEC. 102. AMENDMENT OF PROTECTED HEALTH INFORMATION.

(a) RIGHT TO AMEND.—

(1) IN GENERAL.—Protected health information shall be subject to amendment as provided for in this section.

(2) COMPLIANCE WITH REQUEST.—Except as provided in subsection (c), not later than 45 days after the date on which an originating provider, employer, life insurer, school, or university receives from an individual a request in writing to amend protected health information, such person shall—

(A) make the amendment requested;

(B) inform the individual of the amendment that has been made; and

(C) inform any person identified by the individual in the request for amendment and—

(i) who is not an officer, employee, or agent of the person; and

(ii) to whom the unamended portion of the information was disclosed within the previous year by sending a notice to the individual's last known address that there has been a substantive amendment to the protected health information of such individual.

(b) REQUEST OF ORIGINATING PROVIDERS.—

(1) IN GENERAL.—Protected health information that is created or received by a health plan or health care provider as part of treatment or payment shall be subject to amendment as provided for in this section upon a written request made to the originating provider.

(2) SPECIAL CIRCUMSTANCES.—If an originating provider, its agent, or contractor no longer maintains the protected health information sought to be amended by an individual pursuant to paragraph (1), a health plan or another health care provider that maintains such information may arrange for amendment consistent with this section.

(c) REFUSAL TO AMEND.—If a person described in subsection (a)(2) refuses to make the amendment requested under such subsection, the person shall inform the individual in writing of—

(1) the reasons for the refusal to make the amendment;

(2) the availability of procedures for further review of the refusal; and

(3) the procedures by which the individual may file with the person a concise statement setting forth the requested amendment and the individual's reasons for disagreeing with the refusal.

(d) STATEMENT OF DISAGREEMENT.—If an individual has filed a statement of disagreement under subsection (c)(3), the person involved, in any subsequent disclosure of the disputed portion of the information—

(1) shall include a notation concerning the individual's statement; and

(2) may include a concise statement of the reasons for not making the requested amendment.

(e) RULES GOVERNING AGENTS.—The agent of a person described in subsection (a)(2) shall not be required to make amendments to protected health information, except where—

(1) the protected health information is retained by the agent; and

(2) the agent has been asked in writing by such person to fulfill the requirements of this section.

(f) REPEATED REQUESTS FOR AMENDMENTS.—If a person described in subsection (a)(2) receives a request for an amendment of information as provided for in such subsection and a statement of disagreement has been filed pursuant to subsection (d), the person shall inform the individual of such filing and shall not be required to carry out the procedures required under this section.

(g) RULES OF CONSTRUCTION.—This section shall not be construed to—

(1) require that a person described in subsection (a)(2) conduct a formal, informal, or other hearing or proceeding concerning a request for an amendment to protected health information;

(2) require a provider to amend an individual's protected health information as to the type, duration, or quality of treatment the individual believes he or she should have been provided; or

(3) permit any deletions or alterations of the original information.

SEC. 103. NOTICE OF CONFIDENTIALITY PRACTICES.

(a) PREPARATION OF WRITTEN NOTICE.—A health care provider, health plan, health oversight agency, public health authority, employer, life insurer, health researcher, school, or university shall post or provide, in writing and in a clear and conspicuous manner, notice of the person's confidentiality practices, that shall include—

(1) a description of an individual's rights with respect to protected health information;

(2) the uses and disclosures of protected health information authorized under this Act;

(3) the procedures for authorizing disclosures of protected health information and for revoking such authorizations;

(4) the procedures established by the person for the exercise of the individual's rights; and

(5) the right to obtain a copy of the notice of the confidentiality practices required under this Act.

(b) MODEL NOTICE.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate model notices of confidentiality practices, using the advice of the National Committee on Vital Health Statistics, for use under this section. Use of the model notice shall serve as an absolute defense against claims of receiving inappropriate notice.

Subtitle B—Establishment of Safeguards

SEC. 111. ESTABLISHMENT OF SAFEGUARDS.

(a) IN GENERAL.—A health care provider, health plan, health oversight agency, public health authority, employer, life insurer, health researcher, law enforcement official, school, or university shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, security, accuracy, and integrity of protected health information created, received, obtained, maintained, used, transmitted, or disposed of by such person.

(b) FUNDAMENTAL SAFEGUARDS.—The safeguards established pursuant to subsection (a) shall address the following factors:

(1) The purpose for which protected health information is needed and whether that purpose can be accomplished with nonidentifiable health information.

(2) Appropriate procedures for maintaining the security of protected health information and assuring the appropriate use of any key used in creating nonidentifiable health information.

(3) The categories of personnel who will have access to protected health information and appropriate training, supervision and sanctioning of such personnel with respect to their use of protected health information and adherence to established safeguards.

(4) Appropriate limitations on access to individual identifiers.

(5) Appropriate mechanisms for limiting disclosures of protected information to the information necessary to respond to the request for disclosure.

(6) Procedures for handling requests for protected health information by persons other than the individual who is the subject of such information, including relatives and affiliates of such individual, law enforcement officials, parties in civil litigation, health care providers, and health plans.

SEC. 112. ACCOUNTING FOR DISCLOSURES.

(a) IN GENERAL.—A health care provider, health plan, health oversight agency, public health authority, employer, life insurer, health researcher, law enforcement official, school, or university shall establish and maintain a process for documenting the disclosure of protected health information by any such person through the recording of the name and address of the recipient of the information, or through the recording of another mean of contacting the recipient, and the purpose of the disclosure.

(b) RECORD OF DISCLOSURE.—A record (or other means of documentation) established under subsection (a) shall be maintained for not less than 7 years.

(c) IDENTIFICATION OF DISCLOSED INFORMATION AS PROTECTED HEALTH INFORMATION.—Except as otherwise provided in this title, protected health information shall be clearly identified as protected health information that is subject to this Act.

TITLE II—RESTRICTIONS ON USE AND DISCLOSURE

SEC. 201. GENERAL RULES REGARDING USE AND DISCLOSURE.

(a) DISCLOSURE PROHIBITED.—A health care provider, health plan, health oversight agency, public health authority, employer, life insurer, health researcher, law enforcement official, school, or university, or any agents of such a person, may not disclose protected health information except as authorized under this Act or as authorized by the individual who is the subject of such information.

(b) APPLICABILITY TO AGENTS.—

(1) IN GENERAL.—A person described in subsection (a) may use an agent, including a contractor, to carry out an otherwise lawful activity using protected health information maintained by such person if the person specifies the activities for which the agent is authorized to use such protected health information and prohibits the agent from using or disclosing protected health information for purposes other than carrying out the specified activities.

(2) LIMITATION ON LIABILITY.—Notwithstanding any other provision of this Act, a person who has limited the activities of an agent as provided for in paragraph (1), shall not be liable for the actions or disclosures of the agent that are not in fulfillment of those activities.

(3) LIMITATIONS ON AGENTS.—An agent who receives protected health information from a person described in subsection (a) shall, in its own right, be subject to the applicable provisions of this Act.

(c) APPLICABILITY TO EMPLOYERS.—

(1) IN GENERAL.—An employer may use an employee or agent to create, receive, or maintain protected health information in order to carry out an otherwise lawful activity so long as—

(A) the disclosure of the protected employee health information within the entity is compatible with the purpose for which the information was obtained and limited to information necessary to accomplish the purpose of the disclosure; and

(B) the employer prohibits the release, transfer or communication of the protected health information to officers, employees, or agents responsible for hiring, promotion, and making work assignment decisions with respect to the subject of the information.

(2) DETERMINATION.—For purposes of paragraph (1)(A), the determination of what constitutes information necessary to accomplish the purpose for which the information is obtained shall be made by a health care provider, except in situations involving payment for health plan operations undertaken by the employer.

(d) CREATION OF NONIDENTIFIABLE HEALTH INFORMATION.—A person described in subsection (a) may use protected health information for the purpose of creating nonidentifiable health information.

(e) INDIVIDUAL AUTHORIZATION.—To be valid, an authorization to disclose protected health information under this title shall—

(1) identify the individual who is the subject of the protected health information;

(2) describe the nature of the information to be disclosed;

(3) identify the type of person to whom the information is to be disclosed;

(4) describe the purpose of the disclosure;

(5) be subject to revocation by the individual and indicate that the authorization is valid until revocation by the individual; and

(6) be in writing, dated, and signed by the individual, a family member or other authorized representative.

(f) MANIPULATION OF NONIDENTIFIABLE HEALTH INFORMATION.—Any person who manipulates nonidentifiable health information in order to identify an individual, or uses a key to identify an individual without authorization, is deemed to have disclosed protected health information.

SEC. 202. PROCUREMENT OF AUTHORIZATIONS FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.

(a) AUTHORIZATIONS.—

(1) IN GENERAL.—With respect to each individual, a single authorization that substantially complies with section 201(e) must be secured to permit the use and disclosure of protected health information concerning such individual for treatment, payment, and health care operations, as provided for in this subsection.

(2) EMPLOYERS.—Every employer offering a health plan to its employees shall, at the time of, and as a condition of enrollment in the health plan, obtain a signed, written authorization that is a legal, informed authorization concerning the use and disclosure of protected health information for treatment, payment, and health care operations with respect to each individual who is eligible to receive care under the health plan.

(3) HEALTH PLANS.—Every health plan offering enrollment to individuals or non-employer groups shall, at the time of, and as a condition of enrollment in the health plan, obtain a signed, written authorization that is a legal, informed authorization concerning the use and disclosure of protected health information for treatment, payment, and health care operations, with respect to each individual who is eligible to receive care under the plan.

(4) UNINSURED.—An originating provider providing health care to an uninsured individual, shall obtain a signed, written authorization to use and disclose protected health information with respect to such individual for treatment, payment, and health care operations of such provider, and in arranging for treatment and payment from other providers.

(5) PROVIDERS.—Any health care provider providing health care to an individual may, in connection with providing such care, obtain a signed, written authorization that is a legal, informed authorization concerning the use and disclosure of protected health information with respect to such individual for treatment, payment, and health care operations of such provider.

(b) REVOCATION OF AUTHORIZATION.—

(1) IN GENERAL.—An individual may revoke an authorization under this section at any time, by sending written notice to the person who obtained such authorization, unless the disclosure that is the subject of the authorization is required to complete a course of treatment, effectuate payment, or conduct health care operations for health care that has been provided to the individual.

(2) HEALTH PLANS.—With respect to a health plan, the authorization of an individual is deemed to be revoked at the time of the cancellation or non-renewal of enrollment in the health plan, except as may be necessary to conduct health care operations and complete payment requirements related to the individual's period of enrollment.

(3) TERMINATION OF PLAN.—With respect to the revocation of an authorization under this section by an enrollee in a health plan, the health plan may terminate the coverage of such enrollee under such plan if the health plan determines that the revocation has resulted in the inability of the plan to provide care for the enrollee or conduct health care operations.

(c) RECORD OF INDIVIDUAL'S AUTHORIZATIONS AND REVOCATIONS.—Each person who obtains or is required to obtain an authorization under this section shall maintain a record for a period of 7 years of each such authorization of an individual and revocation thereof.

(d) MODEL AUTHORIZATIONS.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate model written authorizations of the type described in subsection (a). The Secretary shall consult with the National Committee on Vital and Health Statistics in developing such authorizations. An authorization obtained on a model authorization form developed by the Secretary pursuant to the preceding sentence shall be deemed to meet the authorization requirements of this section.

(e) RULES OF CONSTRUCTION.—

(1) SINGLE AUTHORIZATIONS.—An employer or health plan shall be deemed to meet the requirements of subsection (a) with respect to a spouse, child, or other eligible dependent if, at the time of enrollment, a single authorization under subsection (a) is obtained from the employee or other individual who accepts responsibility for health plan enrollment.

(2) REQUIREMENT FOR SEPARATE AUTHORIZATION.—An authorization for the disclosure of protected health information for treatment, payment, and health care operations shall not directly or indirectly authorize the disclosure of such information for any other purpose. Any other such disclosures shall require a separate authorization under section 203.

SEC. 203. AUTHORIZATIONS FOR USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION OTHER THAN FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.

(a) IN GENERAL.—An individual who is the subject of protected health information may authorize any person to disclose or use such information for any purpose. An authorization under this section shall not be valid if the signing of such authorization by the individual is a prerequisite for the signing of an authorization under section 202.

(b) WRITTEN AUTHORIZATIONS.—A person may disclose and use protected health information, for purposes other than those authorized under section 202, pursuant to a written authorization signed by the individual who is the subject of the information that meets the requirements of section 201(e). An authorization under this section shall be separate from any authorization provided under section 202.

(c) LIMITATION ON AUTHORIZATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal law, life insurers, and any other entity that offers disability income or long term care insurance under the laws of any State, shall meet the requirements of section 201(a) with respect to an individual for purposes of life, disability income or long term care insurance, by obtaining the authorization of the individual under this section.

(2) DURING PERIOD OF COVERAGE.—Notwithstanding paragraph (1), an authorization obtained in the ordinary course of business in connection with life, disability income or long-term care insurance under this section shall remain in effect during the term of the individual's insurance coverage and as may be necessary to enable the issuer to meet its obligations with respect to such individual under the terms of the policy, plan or program.

(3) OTHER AUTHORIZATIONS.—An authorization obtained from an individual in connection with an application that does not result in coverage with respect to such individual shall expire the earlier of the date specified in the individual's authorization or the effective date of any revocation under subsection (d).

(d) REVOCATION OR AMENDMENT OF AUTHORIZATION.—

(1) IN GENERAL.—Except as otherwise provided for in this section, an individual may revoke or amend an authorization described in this section by providing written notice to the person who obtained such authorization unless the disclosure that is the subject of the authorization is related to the evaluation of an application for life, disability income or long-term care insurance coverage or a claim for life, disability income or long-term care insurance benefits.

(2) NOTICE OF REVOCATION.—A person that discloses protected health information pursuant to an authorization that has been revoked under paragraph (1) shall not be subject to any liability or penalty under this title if that person had no actual notice of the revocation.

(e) DISCLOSURE FOR PURPOSE ONLY.—A recipient of protected health information pursuant to an authorization under subsection (b) may disclose such information only to carry out the purposes for which the information was authorized to be disclosed.

(f) MODEL AUTHORIZATIONS.—

(1) IN GENERAL.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate model written authorizations of the type described in subsection (b). The Secretary shall consult with the National Committee on Vital and Health Statistics in developing such authorizations.

(2) AUTHORITY OF INSURANCE COMMISSIONER.—Notwithstanding paragraph (1), the insurance commissioner of the State of domicile of a life insurer may exercise exclusive authority in developing and disseminating model written authorizations for purposes of subsection (c).

(3) COMPLIANCE WITH REQUIREMENTS.—An authorization obtained using a model authorization promulgated under this subsection shall be deemed to meet the authorization requirements of this section.

(g) AUTHORIZATIONS FOR RESEARCH.—This section applies to health research only where such research is not governed by section 208.

SEC. 204. NEXT OF KIN AND DIRECTORY INFORMATION.

(a) NEXT OF KIN.—A health care provider, or a person who receives protected health information under section 205, may disclose protected health information regarding an individual to the individual's spouse, parent, child, sister, brother, next of kin, or to another person whom the individual has identified, if—

(1) the individual who is the subject of the information—

(A) has been notified of the individual's right to object to such disclosure and the individual has not objected to the disclosure; or

(B) is in a physical or mental condition such that the individual is not capable of objecting, and there are no prior indications that the individual would object;

(2) the information disclosed relates to health care currently being provided to that individual; and

(3) the disclosure of the protected health information is consistent with good medical or professional practice.

(b) DIRECTORY INFORMATION.—

(1) DISCLOSURE.—

(A) IN GENERAL.—Except as provided in paragraph (2), a person described in subsection (a) may disclose the information described in subparagraph (B) to any person if the individual who is the subject of the information—

(i) has been notified of the individual's right to object and the individual has not objected to the disclosure; or

(ii) is in a physical or mental condition such that the individual is not capable of objecting, the individual's next of kin has not objected, and there are no prior indications that the individual would object.

(B) INFORMATION.—Information described in this subparagraph is information that consists only of 1 or more of the following items:

(i) The name of the individual who is the subject of the information.

(ii) The general health status of the individual, described as critical, poor, fair, stable, or satisfactory or in terms denoting similar conditions.

(iii) The location of the individual on premises controlled by a provider.

(2) EXCEPTION.—

(A) LOCATION.—Paragraph (1)(B)(iii) shall not apply if disclosure of the location of the individual would reveal specific information about the physical or mental condition of the individual, unless the individual expressly authorizes such disclosure.

(B) DIRECTORY OR NEXT OF KIN INFORMATION.—A disclosure may not be made under this section if the health care provider involved has reason to believe that the disclosure of directory or next of kin information could lead to the physical or mental harm of the individual, unless the individual expressly authorizes such disclosure.

SEC. 205. EMERGENCY CIRCUMSTANCES.

Any person who creates or receives protected health information under this title may disclose protected health information in emergency circumstances when necessary to protect the health or safety of the individual who is the subject of such information from serious, imminent harm. No disclosure made in the good faith belief that the disclosure was necessary to protect the health or safety of an individual from serious, imminent harm shall be in violation of, or punishable under, this Act.

SEC. 206. OVERSIGHT.

(a) IN GENERAL.—Any person may disclose protected health information to an accrediting body or public health authority, a health oversight agency, or a State insurance department, for purposes of an oversight function authorized by law.

(b) PROTECTION FROM FURTHER DISCLOSURE.—Protected health information this is disclosed under this section shall not be further disclosed by an accrediting body or public health authority, a health oversight agency, a State insurance department, or their agents for any purpose unrelated to the authorized oversight function. Notwithstanding any other provision of law, protected health information disclosed under this section shall be protected from further disclosure by an accrediting body or public health authority, a health oversight agency, a State insurance department, or their agents pursuant to a subpoena, discovery request, introduction as evidence, testimony, or otherwise.

(c) AUTHORIZATION BY A SUPERVISOR.—For purposes of this section, the individual with authority to authorize the oversight function involved shall provide to the person described in subsection (a) a statement that the protected health information is being sought for a legally authorized oversight function.

(d) USE IN ACTION AGAINST INDIVIDUALS.—Protected health information about an individual that is disclosed under this section may not be used by the recipient in, or disclosed by the recipient to any person for use in, an administrative, civil, or criminal action or investigation directed against the individual who is the subject of the protected health information unless the action or investigation arises out of and is directly related to—

(1) the receipt of health care or payment for health care; or

(2) a fraudulent claim related to health care, or a fraudulent or material misrepresentation of the health of the individual.

SEC. 207. PUBLIC HEALTH.

(a) IN GENERAL.—A health care provider, health plan, public health authority, health researcher, employer, life insurer, law enforcement official, school, or university may disclose protected health information to a public health authority or other person authorized by law for use in a legally authorized—

(1) disease or injury report;

(2) public health surveillance;

(3) public health investigation or intervention;

(4) vital statistics report, such as birth or death information;

(5) report of abuse or neglect information about any individual; or

(6) report of information concerning a communicable disease status.

(b) IDENTIFICATION OF DECEASED INDIVIDUAL.—Any person may disclose protected health information if such disclosure is necessary to assist in the identification or safe handling of a deceased individual.

(c) REQUIREMENT TO RELEASE PROTECTED HEALTH INFORMATION TO CORONERS AND MEDICAL EXAMINERS.—

(1) IN GENERAL.—When a Coroner or a Medical Examiner, or the duly appointed deputy of a Coroner or Medical Examiner, seeks protected health information for the purpose of inquiry into and determination of, the cause, manner, and circumstances of a death, the health care provider, health plan, health oversight agency, public health authority, employer, life insurer, health researcher, law enforcement official, school, or university involved shall provide the protected health information to the Coroner or Medical Examiner or to the duly appointed deputy without undue delay.

(2) PRODUCTION OF ADDITIONAL INFORMATION.—If a Coroner or Medical Examiner, or the duly appointed deputy of a Coroner or Medical Examiner, receives health information from a person referred to in paragraph (1), such health information shall remain as protected health information unless the health information is attached to or otherwise made a part of a Coroner's or Medical Examiner's official report, in which case it shall no longer be protected.

(3) EXEMPTION.—Health information attached to or otherwise made a part of a Coroner's or Medical Examiner's official report, shall be exempt from the provisions of this Act.

SEC. 208. HEALTH RESEARCH.

(a) IN GENERAL.—A person lawfully in possession of protected health information may disclose such information to a health researcher under any of the following arrangements:

(1) RESEARCH GOVERNED BY THE COMMON RULE.—A person identified in subsection (a) may disclose protected health information to a health researcher if the research project has been approved by an institutional review board pursuant to the requirements of the common rule as implemented by a Federal agency.

(2) ANALYSES OF HEALTH CARE RECORDS AND MEDICAL ARCHIVES.—A person identified in subsection (a) may disclose protected health information to a health researcher if—

(A) consistent with the safeguards established pursuant to section 111 and the person's policies and procedures established under this section, the health research has been reviewed by a board, committee, or other group formally designated by such person to review research programs;

(B) the health research involves analysis of protected health information previously created or collected by the person;

(C) the person that maintains the protected health information to be used in the analyses has in place a written policy and procedure to assure the security and confidentiality of protected health information and to specify permissible and impermissible uses of such information for health research;

(D) the person that maintains the protected health information to be used in the analyses enters into a written agreement with the recipient health researcher that specifies the permissible and impermissible uses of the protected health information and provides notice to the researcher that any misuse or further disclosure of the information to other persons is prohibited and may provide a basis for action against the health researcher under this Act; and

(E) the person keeps a record of health researchers to whom protected health information has been disclosed.

(3) SAFETY AND EFFICACY REPORTS.—A person may disclose protected health information to a manufacturer of a drug, biologic or medical device, in connection with any monitoring activity or reports made to such manufacturer for use in verifying the safety or efficacy of such manufacturer's approved product in special populations or for long term use.

(b) OVERSIGHT.—On the advice of the National Committee on Vital and Health Statistics, the Secretary shall report to the Congress not later than 18 months after the effective date of this section concerning the adequacy of the policies and procedures implemented pursuant to subsection (a)(2) for protecting the confidentiality of protected health information while promoting its use in research concerning health care outcomes, the epidemiology and etiology of diseases and conditions and the safety, efficacy and cost effectiveness of health care interventions. Based on the conclusions of such report, the Secretary may promulgate model

language for written agreements deemed to comply with subsection (a)(2)(C).

(c) STATUTORY ASSURANCE OF CONFIDENTIALITY.—

(1) IN GENERAL.—Protected health information obtained by a health researcher pursuant to this section shall be used and maintained in confidence, consistent with the confidentiality practices established by the health researcher pursuant to section 111.

(2) LIMITATION ON COMPELLED DISCLOSURE.—A health researcher may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to disclose protected health information created, maintained or received under this section. Nothing in this paragraph shall be construed to prevent an audit or lawful investigation pursuant to the authority of a Federal department or agency, of a research project conducted, supported or subject to regulation by such department or agency.

(3) LIMITATION ON FURTHER USE OR DISCLOSURE.—Notwithstanding any other provision of law, information disclosed by a health researcher to a Federal department or agency under this subsection may not be further used or disclosed by the department or agency for a purpose unrelated to the department's or agency's oversight or investigation.

SEC. 209. DISCLOSURE IN CIVIL, JUDICIAL, AND ADMINISTRATIVE PROCEDURES.

(a) IN GENERAL.—A health care provider, health plan, public health authority, employer, life insurer, law enforcement official, school, or university may disclose protected health information pursuant to a discovery request or subpoena in a civil action brought in a Federal or State court or a request or subpoena related to a Federal or State administrative proceeding if such discovery request or subpoena is made through or pursuant to a court order as provided for in subsection (b).

(b) COURT ORDERS.—

(1) STANDARD FOR ISSUANCE.—In considering a request for a court order regarding the disclosure of protected health information under subsection (a), the court shall issue such order if the court determines that without the disclosure of such information, the person requesting the order would be impaired from establishing a claim or defense.

(2) REQUIREMENTS.—An order issued under paragraph (1) shall—

(A) provide that the protected health information involved is subject to court protection;

(B) specify to whom the information may be disclosed;

(C) specify that such information may not otherwise be disclosed or used; and

(D) meet any other requirements that the court determines are needed to protect the confidentiality of the information.

(c) APPLICABILITY.—This section shall not apply in a case in which the protected health information sought under such discovery request or subpoena relates to a party to the litigation or an individual whose medical condition is at issue.

(d) EFFECT OF SECTION.—This section shall not be construed to supersede any grounds that may apply under Federal or State law for objecting to turning over the protected health information.

SEC. 210. DISCLOSURE FOR LAW ENFORCEMENT PURPOSES.

A person who receives protected health information pursuant to sections 202 through 207, may disclose such information to a State or Federal law enforcement agency if such disclosure is pursuant to—

(1) a subpoena issued under the authority of a grand jury;

(2) an administrative or judicial subpoena or summons;

(3) a warrant issued upon a showing of probable cause;

(4) a Federal or State law requiring the reporting of specific medical information to law enforcement authorities;

(5) a written consent or waiver of privilege by an individual allowing access to the individual's protected health information; or

(6) by other court order.

SEC. 211. PAYMENT CARD AND ELECTRONIC PAYMENT TRANSACTION.

(a) PAYMENT FOR HEALTH CARE THROUGH CARD OR ELECTRONIC MEANS.—If an individual pays for health care by presenting a debit, credit, or other payment card or account number, or by any other payment means, the person receiving the payment may disclose to a person described in subsection (b) only such protected health information about the individual as is necessary in connection with activities described in subsection (b), including the processing of the payment transaction or the billing or collection of amounts charged to, debited from, or otherwise paid by, the individual using the card, number, or other means.

(b) TRANSACTION PROCESSING.—A person who is a debit, credit, or other payment card issuer, a payment system operator, a financial institution participant in a payment system or is an entity assisting such an issuer, operator, or participant in connection with activities described in this subsection, may use or disclose protected health information about an individual in connection with—

(1) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited or otherwise paid using a debit, credit, or other payment card or account number, or by other payment means;

(2) the transfer of receivables, accounts, or interest therein;

(3) the audit of the debit, credit, or other payment information;

(4) compliance with Federal, State, or local law;

(5) compliance with a properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities as governed by the requirements of this section; or

(6) fraud protection, risk control, resolving customer disputes or inquiries, communicating with the person to whom the information relates, or reporting to consumer reporting agencies.

(c) SPECIFIC PROHIBITIONS.—A person described in subsection (b) may not disclose protected health information for any purpose that is not described in subsection (b). Notwithstanding any other provision of law, any health care provider, health plan, health oversight agency, health researcher, employer, life insurer, school or university who makes a good faith disclosure of protected health information to an entity and for the purposes described in subsection (b) shall not be liable for subsequent disclosures by such entity.

(d) SCOPE.—

(1) IN GENERAL.—The use of protected health information by a person described in subsection (b) and its agents shall not be considered a disclosure for purposes of this Act, so long as the use involved is consistent with the activities authorized in subsection (b) or other purposes for which the information was lawfully obtained.

(2) REGULATED INSTITUTIONS.—A person who is subject to enforcement pursuant to section 8 of the Federal Deposit Insurance Act or who is a Federal credit union or State credit union as defined in the Federal Credit Union Act or who is registered pursuant to the Securities and Exchange Act, or who is an entity assisting such a person—

(A) shall not be subject to this Act to the extent that such person or entity is described in subsection (b) and to the extent that such person or entity is engaged in activities authorized in that subsection; and

(B) shall be subject to enforcement exclusively under section 8 of the Federal Deposit Insurance Act, the Federal Credit Union Act, or the Securities and Exchange Act, as applicable, to the extent that such person or entity is engaged in activities other than those permitted under subsection (b).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to exempt entities described in paragraph (2) from the prohibition set forth in subsection (c).

SEC. 212. INDIVIDUAL REPRESENTATIVES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), a person who is authorized by law (based on grounds other than the individual being a minor), or by an instrument recognized under law, to act as an agent, attorney, proxy, or other legal representative of a protected individual, may, to the extent so authorized, exercise and discharge the rights of the individual under this Act.

(b) HEALTH CARE POWER OF ATTORNEY.—A person who is authorized by law (based on grounds other than being a minor), or by an instrument recognized under law, to make decisions about the provision of health care to an individual who is incapacitated, may exercise and discharge the rights of the individual under this Act to the extent necessary to effectuate the terms or purposes of the grant of authority.

(c) NO COURT DECLARATION.—If a health care provider determines that an individual, who has not been declared to be legally incompetent, suffers from a medical condition that prevents the individual from acting knowingly or effectively on the individual's own behalf, the right of the individual to authorize disclosure under this Act may be exercised and discharged in the best interest of the individual by—

(1) a person described in subsection (b) with respect to the individual;

(2) a person described in subsection (a) with respect to the individual, but only if a person described in paragraph (1) cannot be contacted after a reasonable effort;

(3) the next of kin of the individual, but only if a person described in paragraph (1) or (2) cannot be contacted after a reasonable effort; or

(4) the health care provider, but only if a person described in paragraph (1), (2), or (3) cannot be contacted after a reasonable effort.

(d) APPLICATION TO DECEASED INDIVIDUALS.—The provisions of this Act shall continue to prevent disclosure of protected health information concerning a deceased individual.

(e) EXERCISE OF RIGHTS ON BEHALF OF A DECEASED INDIVIDUAL.—

(1) IN GENERAL.—A person who is authorized by law or by an instrument recognized under law, to act as an executor of the estate of a deceased individual, or otherwise to exercise the rights of the deceased individual, may, to the extent so authorized, exercise and discharge the rights of such deceased individual under this Act for a period of 2 years following the death of such individual. If no such designee has been authorized, the rights of the deceased individual may be exercised as provided for in subsection (c).

(2) INSURED INDIVIDUALS.—In the case of an individual who is deceased and who was the insured under an insurance policy or policies, the right to authorize disclosure of protected health information may be exercised by the beneficiary or beneficiaries of such insurance policy or policies.

(f) RIGHTS OF MINORS.—The rights of minors under this Act shall be exercised by a parent, the minor or other person as provided under applicable state law.

SEC. 213. NO LIABILITY FOR PERMISSIBLE DISCLOSURES.

A health care provider, health plan, health oversight agency, health researcher, employer, life insurer, school, or university, or an agent of any such person, that makes a disclosure of protected health information about an individual that is permitted by this Act shall not be liable to the individual for such disclosure under common law.

SEC. 214. SALE OF BUSINESS, MERGERS, ETC.

(a) IN GENERAL.—A health care provider, health plan, health oversight agency, employer, life insurer, school, or university may disclose protected health information to a person or persons for purposes of enabling business decisions to be made about or in connection with the purchase, transfer, merger, or sale of a business or businesses.

(b) NO FURTHER USE OR DISCLOSURE.—A person or persons who receive protected health information under this section shall make no further use or disclosure of such information unless otherwise authorized under this Act.

TITLE III—SANCTIONS

Subtitle A—Criminal Provisions

SEC. 301. WRONGFUL DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by adding at the end the following:

"CHAPTER 124—WRONGFUL DISCLOSURE OF PROTECTED HEALTH INFORMATION

"SEC. 2801. WRONGFUL DISCLOSURE OF PROTECTED HEALTH INFORMATION.

''(a) OFFENSE.—The penalties described in subsection (b) shall apply to a person that knowingly and intentionally—

''(1) obtains protected health information relating to an individual from a health care provider, health plan, health oversight agency, public health authority, employer, life insurer, health researcher, law enforcement official, school, or university except as provided in title II of the Medical Information Protection Act of 1999; or

''(2) discloses protected health information to another person in a manner other than that which is permitted under title II of the Medical Information Protection Act of 1999.

''(b) PENALTIES.—A person described in subsection (a) shall—

''(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

''(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; or

''(3) if the offense is committed with the intent to sell, transfer, or use protected health information for monetary gain or malicious harm, be fined not more than $250,000, imprisoned not more than 10 years, or both.

''(c) SUBSEQUENT OFFENSES.—In the case of a person described in subsection (a), the maximum penalties described in subsection (b) shall be doubled for every subsequent conviction for an offense arising out of a violation or violations related to a set of circumstances that are different from those involved in the previous violation or set of related violations described in such subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 123 the following new item:

''124. Wrongful disclosure of protected health information ..... 2801''.

Subtitle B—Civil Sanctions

SEC. 311. CIVIL PENALTY VIOLATION.

A person who the Secretary, in consultation with the Attorney General, determines has substantially and materially failed to comply with this Act shall be subject, in addition to any other penalties that may be prescribed by law—

(1) in a case in which the violation relates to title I, to a civil penalty of not more than $500 for each such violation, but not to exceed $5,000 in the aggregate for multiple violations arising from the same failure to comply with the Act;

(2) in a case in which the violation relates to title II, to a civil penalty of not more than $10,000 for each such violation, but not to exceed $50,000 in the aggregate for multiple violations arising from the same failure to comply with the Act; or

(3) in a case in which the Secretary finds that such violations have occurred with such frequency as to constitute a general business practice, to a civil penalty of not more than $100,000.

SEC. 312. PROCEDURES FOR IMPOSITION OF PENALTIES.

(a) INITIATION OF PROCEEDINGS.—

(1) IN GENERAL.—The Secretary, in consultation with the Attorney General, may initiate a proceeding to determine whether to impose a civil money penalty under section 311. The Secretary may not initiate an action under this section with respect to any violation described in section 311 after the expiration of the 6-year period beginning on the date on which such violation was alleged to have occurred. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.

(2) NOTICE AND OPPORTUNITY FOR HEARING.—The Secretary shall not make a determination adverse to any person under paragraph (1) until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

(3) SANCTIONS FOR FAILURE TO COMPLY.—The official conducting a hearing under this section may sanction a person, including any party or attorney, for failing to comply with an order or procedure, failing to defend an action, or other misconduct as would interfere with the speedy, orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include—

(A) in the case of refusal to provide or permit discovery, drawing negative factual inferences or treating such refusal as an admission by deeming the matter, or certain facts, to be established;

(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense;

(C) striking pleadings, in whole or in part;

(D) staying the proceedings;

(E) dismissal of the action;

(F) entering a default judgment;

(G) ordering the party or attorney to pay attorneys' fees and other costs caused by the failure or misconduct; and

(H) refusing to consider any motion or other action which is not filed in a timely manner.

(b) SCOPE OF PENALTY.—In determining the amount or scope of any penalty imposed pursuant to section 311, the Secretary shall take into account—

(1) the nature of claims and the circumstances under which they were presented;

(2) the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims;

(3) evidence of good faith endeavor to protect the confidentiality of protected health information; and

(4) such other matters as justice may require.

(c) REVIEW OF DETERMINATION.—

(1) IN GENERAL.—Any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States Court of Appeals for the circuit in which the person resides, or in which the claim was presented, by filing in such court (within 60 days following the date the person is notified of the determination of the Secretary) a written petition requesting that the determination be modified or set aside.

(2) FILING OF RECORD.—A copy of the petition filed under paragraph (1) shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the Court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified.

(3) CONSIDERATION OF OBJECTIONS.—No objection that has not been raised before the Secretary with respect to a determination described in paragraph (1) shall be considered by the court, unless the failure or neglect to raise such objection shall be excused because of extraordinary circumstances.

(4) FINDINGS.—The findings of the Secretary with respect to questions of fact in an action under this subsection, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and shall file with the court such modified or new findings, and such findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, and the recommendations of the Secretary, if any, for the modification or setting aside of the original order, shall be conclusive.

(5) EXCLUSIVE JURISDICTION.—Upon the filing of the record with the court under paragraph (2), the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided for in section 1254 of title 28, United States Code.

(d) RECOVERY OF PENALTIES.—

(1) IN GENERAL.—Civil money penalties imposed under this subtitle may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in United States district court for the district where the claim was presented, or where the claimant resides, as determined by the Secretary. Amounts recovered under this section shall be paid to the Secretary and deposited as

miscellaneous receipts of the Treasury of the United States.

(2) DEDUCTION FROM AMOUNTS OWING.—The amount of any penalty, when finally determined under this section, or the amount agreed upon in compromise under paragraph (1), may be deducted from any sum then or later owing by the United States or a State to the person against whom the penalty has been assessed.

(e) DETERMINATION FINAL.—A determination by the Secretary to impose a penalty under section 311 shall be final upon the expiration of the 60-day period referred to in subsection (c)(1). Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (c) may not be raised as a defense to a civil action by the United States to collect a penalty under section 311.

(f) SUBPOENA AUTHORITY.—

(1) IN GENERAL.—For the purpose of any hearing, investigation, or other proceeding authorized or directed under this section, or relative to any other matter within the jurisdiction of the Attorney General hereunder, the Attorney General, acting through the Secretary shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Secretary. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof.

(2) SERVICE.—Subpoenas of the Secretary under paragraph (1) shall be served by anyone authorized by the Secretary by delivering a copy thereof to the individual named therein.

(3) PROOF OF SERVICE.—A verified return by the individual serving the subpoena under this subsection setting forth the manner of service shall be proof of service.

(4) FEES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district court of the United States.

(5) REFUSAL TO OBEY.—In case of contumacy by, or refusal to obey a subpoenaed duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear and produce evidence, or both. Any failure to obey such order of the court may be punished by the court as contempt thereof.

(g) INJUNCTIVE RELIEF.—Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under section 311, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty if any such penalty were to be imposed or to seek other appropriate relief.

(h) AGENCY.—A principal is liable for penalties under section 311 for the actions of the principal's agent acting within the scope of the agency.

SEC. 313. ENFORCEMENT BY STATE INSURANCE COMMISSIONERS.

(a) STATE PENALTIES.—Subject to section 401, and notwithstanding any other provision of this title, the insurance commissioner of the State of residence of an insured under a life, disability income or long-term care insurance policy may exercise exclusive authority to impose any penalties on a life insurer for violations of this Act in connection with life, disability income or long-term care insurance pursuant to the administrative procedures provided under that State's insurance laws.

(b) FAIL-SAFE FEDERAL AUTHORITY.—In the case of a State that fails to substantially enforce the requirements of title I or title II of this Act with respect to life insurers regulated by such State, the provisions of this title shall apply with respect to a life insurer in the same way that they apply to other persons subject to the Act.

TITLE IV—MISCELLANEOUS

SEC. 401. RELATIONSHIP TO OTHER LAWS.

(a) STATE AND FEDERAL LAW.—Except as provided in this section, the provisions of this Act shall preempt any State law that relates to matters covered by this Act. Nothing in this Act shall be construed to preempt, modify, repeal or affect the interpretation of a provision of Federal or State law that relates to the disclosure of protected health information or any other information about a minor to a parent or guardian of such minor. This Act shall not be construed as repealing, explicitly or implicitly, other Federal laws or regulations relating to protected health information or relating to an individual's access to protected health information or health care services.

(b) PRIVILEGES.—Nothing in this title shall be construed to preempt or modify any provisions of State statutory or common law to the extent that such law concerns a privilege of a witness or person in a court of that State. This title shall not be construed to supersede or modify any provision of Federal statutory or common law to the extent such law concerns a privilege of a witness or person in a court of the United States. Authorizations pursuant to sections 202 and 203 shall not be construed as a waiver of any such privilege.

(c) REPORTS CONCERNING FEDERAL PRIVACY ACT.—Not later than 1 year after the date of enactment of this Act, the head of each Federal agency shall prepare and submit to Congress a report concerning the effect of this Act on each such agency. Such reports shall include recommendations for legislation to address concerns relating to the Federal Privacy Act.

(d) APPLICATION TO CERTAIN FEDERAL AGENCIES.—

(1) DEPARTMENT OF DEFENSE.—

(A) EXCEPTIONS.—The Secretary of Defense may, by regulation, establish exceptions to the disclosure requirements of this Act to the extent such Secretary determines that disclosure of protected health information relating to members of the armed forces from systems of records operated by the Department of Defense is necessary under circumstances different from those permitted under this Act for the proper conduct of national defense functions by members of the armed forces.

(B) APPLICATION TO CIVILIAN EMPLOYEES.—The Secretary of Defense may, by regulation, establish for civilian employees of the Department of Defense and employees of Department of Defense contractors, limitations on the right of such persons to revoke or amend authorizations for disclosures under section 203 when such authorizations were provided by such employees as a condition of employment and the disclosure is determined necessary by the Secretary of Defense to the proper conduct of national defense functions by such employees.

(2) DEPARTMENT OF TRANSPORTATION.—

(A) EXCEPTIONS.—The Secretary of Transportation may, with respect to members of the Coast Guard, exercise the same powers as the Secretary of Defense may exercise under paragraph (1)(A).

(B) APPLICATION TO CIVILIAN EMPLOYEES.—The Secretary of Transportation may, with respect to civilian employees of the Coast Guard and Coast Guard contractors, exercise the same powers as the Secretary of Defense may exercise under paragraph (1)(B).

(3) DEPARTMENT OF VETERANS AFFAIRS.—The limitations on use and disclosure of protected health information under this Act shall not be construed to prevent any exchange of such information within and among components of the Department of Veterans Affairs that determine eligibility for or entitlement to, or that provide, benefits under laws administered by the Secretary of Veteran Affairs.

SEC. 402. CONFORMING AMENDMENT.

Section 1171(6) of the Social Security Act (42 U.S.C. 1320d(6)) is amended to read as follows:

''(6) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' has the same meaning given the term 'protected health information' by section 4 of the Medical Information Protection Act of 1999.''.

SEC. 403. STUDY BY INSTITUTE OF MEDICINE.

Not later than 2 years after the date of enactment of this Act, the National Research Council in conjunction with the Institute of Medicine of the National Academy of Sciences shall conduct a study to examine research issues relating to protected health information, such as the quality and uniformity of institutional review boards and their practices with respect to data management for both researchers and institutional review boards, as well as current and proposed protection of health information in relation to the legitimate needs of law enforcement. The Council shall prepare and submit to Congress a report concerning the results of such study.

SEC. 405. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date that is 12 months after the date on which regulations are promulgated as required under subsection (c).

(b) APPLICABILITY.—The provisions of this Act shall only apply to protected health information collected and disclosed 12 months after the date on which regulations are promulgated as required under subsection (c).

(c) REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary shall, in consultation with the National Committee on Vital and Health Statistics, promulgate regulations implementing this Act.

(d) EXCEPTION.—If, not later than 18 months after the date of enactment of this Act, the Secretary has not promulgated the regulations required under subsection (c), the effective date for purposes of subsections (a) and (b) shall be the date that is 30 months after the date of enactment of this Act or 12 months after the promulgation of such regulations, whichever is earlier.

GROUPS SUPPORTING THE MEDICAL INFORMATION PROTECTION ACT OF 1999

American Medical Informatics Association (AMIA).

Joint Healthcare Information Technology Alliance (JHITA).

Intermountain Health Care (IHC).

Premier Institute.

Association of American Medical Colleges (AAMC).

American Health Information Management Association (AHIMA).

Healthcare Leadership Council (HLC).

Federation of American Health Systems.

National Association of Chain Drug Stores (NACDS).
PCS Health Systems.
Academy of Managed Care Pharmacy.
Genentech.
Baxter Healthcare Corporation.
Biotechnology Industry Organization (BIO).
Eli Lilly and Co.
Pan Am and Wausau Insurance.
SmithKline Beecham.
Leukemia Society of America.
Kidney Cancer Foundation.
Mutual of Omaha.
American Hospital Association (AHA).
American Association of Health Plans (AAHP).
Cleveland Clinic Foundation.
First Health Group Corporation.
Health Insurance Association of America (HIAA).
Knoll Pharmaceuticals Co.
Lahey Clinic.
Mayo Foundation.
Pharmaceutical Research and Manufacturers Association (PhRMA).
American Society of Consultant Pharmacists.
Association for Electronic Health Care Transactions.
CIGNA.
Cleveland Clinic Foundation.
Express Scripts/ValueRx.
First Health Group Corporation.
Food Marketing Institute.
Humana, Inc.
Knoll Pharmaceuticals.
National Association of Manufacturers.
Pharmaceutical Care Management Association.
VHA Inc.
WellPoint Networks, Inc.
Blue Cross Blue Shield Association.
American Association of Occupational Health Nurses.
Merck & Co., Inc.

By Mr. MURKOWSKI (for himself, Mr. HAGEL, Mr. BYRD, Mr. CRAIG, Mr. ROBERTS, Mr. GRAMS, Mr. HUTCHINSON, and Mr. ENZI):

S. 882. A bill to strengthen provisions in the Energy Policy Act of 1992 and the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to potential Climate Change; to the Committee on Energy and Natural Resources.

ENERGY AND CLIMATE POLICY ACT OF 1999

Mr. MURKOWSKI. Mr. President, today I rise to introduce legislation cosponsored by Senator HAGEL, who is here, Senator BYRD, Senator CRAIG, Senator ROBERTS, Senator GRAMS, Senator HUTCHINSON, Senator ENZI, and, of course, Senator HAGEL.

This is a bill that deals with the issue of the potential climate change that we have heard so much about in this body over the last several months.

Our specific bill would do three things, Mr. President. First, the bill would create a new $2 billion research, development, and demonstration program designed to develop and enhance new technology to help stabilize greenhouse gas concentrations in the atmosphere.

This would be a cost-shared partnership with industry to spur innovation and technology so that we can use this technology and have it deployed in the United States, as well as have it exported around the world. Think about the tremendous advancements that have been made in technology in the last decade, Mr. President. Apply the same basis of need for that technology to be used to reduce greenhouse gases and address climate change. The necessity of doing this, Mr. President, is obvious.

We have seen discussed and examined the costs of Kyoto. The cost of complying with Kyoto is estimated to be up to $338 billion in lost gross domestic product by the year 2010. That equates to $3,068 per household by that year. So it is a substantial investment and deserves our attention now.

Our bill would improve the provisions in existing law which promote voluntary reductions in greenhouse gas emissions. Our emphasis remains on encouraging voluntary action and not creating new regulatory burdens.

Finally, our bill would establish greater accountability and responsibility for climate change and related matters within the Department of Energy by establishing a statutory office of global climate change. Somebody needs to be accountable in the Department of Energy for policies in this area. While the Secretary is ultimately accountable, we want to see greater program direction and focus in this area. It is justified, Mr. President, when we think of the costs associated with meeting the demands and requirements of Kyoto. We can do this and achieve this through technology, and it is an investment well spent.

Now, there are other commonsense approaches we continue to work on that we or others will later propose in separate bills or as amendments to this bill as we get into the debate. For example, we would like to protect the U.S. Global Climate Change Research Program from politics and ensure that it is conducting high-quality, merit-based, peer-reviewed science; we would like to remove regulatory obstacles that stand in the way of voluntary greenhouse gas emissions reduction; we would like to promote voluntary agricultural management practices that sequester, or trap, additional carbon dioxide in biomass and soils; we would like to promote forest management practices that sequester carbon. Mr. President, we encourage the growth of more trees.

We would like to promote U.S. exports of clean technologies to nations such as China and India, who are belching greenhouse gases and choking on their own pollutants. For this to be a global approach to a global issue, the developing countries must be engaged in the solution—unlike Kyoto, where there is a mandate that developing countries simply get a free ride. The recognition is—if you buy that logic—there is no net gain, no substantial decrease in emissions. Under our proposal, the technology would be applicable to the developing nations, so there would be a substantial net decrease in greenhouse gases.

Where sensible and cost effective, we would like to pursue possible changes to the Tax Code to promote certain activities or practices designed to reduce, sequester, or avoid greenhouse gas emissions.

These are all approaches that we plan to pursue, in a bipartisan manner, to address the issue of greenhouse gas emissions and potential climate change, because we believe the potential threat of human-induced climate change will best be solved on a global basis, and solved with technology and American innovation over the long term.

This is the reason we are engaging the developing nations to come aboard—by getting new technology into the marketplace, get it out there and installed and reduce emissions.

Compare our approach with that taken by the Kyoto protocol, which gives developing nations a free ride. Kyoto explicitly ignores the provision of the Byrd-Hagel resolution, which passed this Senate 95 to 0 in 1997.

We are, of course, a body of advice and consent. We gave the administration our advice 95 to 0, so they shouldn't expect our consent. Ninety-five Senators, Mr. President, rarely agree on anything. As a consequence, I think we have spoken relative to the merits of the treaty that was brought before us.

Although the President may seek short-term political gain in simply signing a treaty that imposes burdens long after his watch is over—and that is the applicability of these targets—these targets will come long after the current administration is gone. So it is very easy to set these targets, because this administration won't be held accountable. If the President chooses to ignore our advice, then I don't think he should expect our consent. That is kind of where we are now.

If we recall the Byrd-Hagel resolution, it said that all nations must be included in emission targets and that serious economic harm must not result—serious economic harm. But what serious economic harm? Mr. President, I suggest that a cost to this Nation of $338 billion in lost GDP in the year 2010 is significant economic harm.

Yet the Kyoto proposal does not include all nations. Only 35 industrial nations are subject to emission limits, even though the 134 developing nations will surpass them in emissions by the year 2015. Moreover, the Kyoto protocol's regulatory approach requires legally binding quantified emissions reductions of 7 percent below 1990 levels by the years 2008–2012. That is roughly a 40-percent decrease in emissions from our current baseline. We simply can't get there from here without endangering energy supply, reliability, or our economy.

According to the economic analysis of the Department of Energy's Energy Information Administration, if we were to adopt Kyoto, here is what American consumers could face in the year 2010:

53 percent higher gasoline prices;
86 percent higher electric prices;
Upward pressure on interest rates;
New inflationary pressures.
There goes your surplus.

At a recent hearing of the Energy and Natural Resources Committee, one witness testified that the economic downturn accompanying the Kyoto implementation would depress tax revenues, erase the surplus we have earmarked to shore up Social Security, and reduce the public debt.

With the Kyoto approach, we say goodbye to the budget surplus, goodbye to the hopes of saving Social Security, and goodbye to the economic prosperity in this country today.

What do we get for enduring this economic pain? Do we stabilize the greenhouse gas concentrations in the atmosphere under Kyoto? The answer is clearly no. Do we even reduce global greenhouse gas emissions? No, because any reductions by the 35 developed nations and the parties to the treaty would be overwhelmed by the growing emissions from the 134 nations that aren't covered by the Kyoto emissions limit.

That is what is wrong with Kyoto. Make no mistake about it, Mr. President, the Kyoto protocol is an expensive, short-term, narrowly applied regulatory approach that will erode U.S. sovereignty, punish U.S. consumers, and do nothing to enhance the global environment.

We are, with this bill and others that will follow, charting a different, a new, a progressive course. Ours is a long-term, technology-based, global effort. If human-induced greenhouse gas emissions are indeed changing the climate for the worse—and there remains substantial scientific uncertainty at this point—then we should act in a prudent manner to reduce, sequester, or avoid those emissions through technology.

I would like to address criticisms leveled by the administration about our bill that are based, I hope, on a misunderstanding.

A recent administration ''fact sheet,'' after recognizing that there are ''positive features'' in the bill, and noting that it ''makes improvements to current law'' regarding voluntary efforts to curtail emissions, goes on to incorrectly erroneously state that our bill ''rolls back energy efficiency and clean energy programs with a long history of bipartisan support.''

The administration ''fact sheet'' is incorrect. Our bill does not roll back funding for renewable energy or energy efficiency. Instead, it authorizes $200 million per year in new money; it does not deauthorize any existing programs.

With that clarification, it would be my hope that the administration would support our bill and join us in a prudent, common sense approach to greenhouse gas emissions and climate.

Mr. President, I think I had 20 minutes under special orders this morning.

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. I ask that the remainder of my time be available to my cosponsor, Senator HAGEL.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. MURKOWSKI. I thank the Chair. I thank my colleagues.

Mr. HAGEL. Thank you, Mr. President. I thank as well Senator MURKOWSKI.

Mr. President, I rise this morning to join my colleague and friend, the distinguished chairman of the Senate Energy and Natural Resources Committee, and the senior Senator from West Virginia, Senator BYRD, and other colleagues in introducing the Energy and Climate Policy Act of 1999. We offer this legislation because we believe it is time that Congress take a new, bipartisan approach to dealing with the issue of global climate change.

This legislation turns the debate away from unachievable, U.N.-mandated, arbitrary, short-term targets and timetables as dictated by the Kyoto protocol toward a long-term strategy that focuses on sound science, increased research and development, incentives for voluntary action, and public-private technological initiatives that are market driven and technology based.

Twenty-first century technologies, American ingenuity, and public-private cooperation—not U.N.-mandated energy rationing—should be, in fact, the focus of climate change efforts in the Congress. I hope Members on both sides of the aisle will join this effort.

Mr. President, this has never been a debate about who is for or against the environment. This has never been a partisan issue. I have not met one Member of the Senate—Republican or Democrat—who wants to leave their children a dirty and uninhabitable environment. We all agree that we have a responsibility to protect our environment. What this debate should be about is bringing some common sense—common sense—to this issue.

This bill that we are introducing today—the Energy and Climate Policy Act—brings some common sense to the issue of climate change.

Senator MURKOWSKI laid out a number of the more specific parts of our bill—accountability for one. We put this responsibility in the Department of Energy where there is someone ''in charge.''

Presently we have accountability for global climate change spread throughout the Government. It is in the White House. It is in the EPA. It is in the Departments of Commerce, Agriculture, Interior, and Energy. All of these organizations have their tentacles wrapped around this issue. So with this, we will focus on accountability, responsibility. Let's get the job done.

Second, this bill moves the current focus of climate change policy away from short-term, draconian energy rationing and cost increases mandated by the United Nations Kyoto protocol toward a long-term domestic commitment to research and development. As Senator MURKOWSKI pointed out, it adds significant Government funding in a private-public enterprise over the next 10 years. It focuses on real science, sound science.

Third, this bill continues Congress' commitment to supporting voluntary energy efforts to reduce, sequester, or avoid manmade greenhouse gas emissions. It does so by strengthening current law—not by creating new international, bureaucratic, governmental regimes in which we will all be accountable.

In short, among other things this bill does, we look at the entire picture—the consequences of our actions. That means including activities that naturally lower the levels of greenhouse gas emissions.

This bill also addresses the issue of whether such voluntary efforts are ''real and verifiable''—Who enforces these kinds of mandates?—the role of agriculture, the role of industry, business, labor, and long-term standard of living consequences: How competitive are our products in the world markets?—market driven, technology based. We build on what is already the foundation of this great, free land and this great, free market economy.

This bill also allows all of our enterprises in this country to plan for the future and build commitments into outyear planning and investment decisions. Kyoto doesn't talk about that. Who finances these efforts?

This is the best way to deal with the issue of climate change: a long-term commitment based on American ingenuity, exports, scientific certainty, 21st century technology, and market principles.

By doing these things we can walk away from the disastrous path that this administration and the Kyoto protocol would lead us and focus our efforts instead on a positive, bipartisan, achievable commonsense approach.

I hope my colleagues will take a look at what we are introducing today. It is a bipartisan bill. It does make sense. I look forward to working with the Presiding Officer and others this year and into next year in crafting something that is achievable and workable and good for this country.

Mr. President, 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. 882

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 ''Energy and Climate Policy Act of 1999.''

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Although there are significant uncertainties surrounding the science of climate

change, human activities may contribute to increasing global concentrations of greenhouse gases in the atmosphere, which in turn may ultimately contribute to global climate change beyond that resulting from natural variability;

(2) the characteristics of greenhouse gases and the physical nature of the climate system require that any stabilization of atmospheric greenhouse gas concentrations must be a long-term effort undertaken on a global basis;

(3) since developing countries will constitute the major source of greenhouse gas emissions early in the 21st century, all nations must share in an effective international response to potential climate change;

(4) environmental progress and economic prosperity are interrelated;

(5) effective greenhouse gas management efforts depend on the development of long-term, cost-effective technologies and practices that can be developed, refined, and deployed commercially in an orderly manner in the United States and around the world;

(6) in its present form as signed by the Administration, the Kyoto Protocol to the United Nations Framework Convention on Climate Change fails to meet the minimum conditions of Senate Resolution 98, 105th Congress, which was adopted by the Senate on July 25 1997 by a vote of 95–0;

(7) The President has not submitted the Kyoto Protocol to the Senate for debate and advice and consent to ratification under Article II, Section 2, clause 2 of the United States Constitution and has indicated that the Administration has no intention to do so in the foreseeable future, or to implement any portion of the Kyoto Protocol prior to its ratification in the Senate.

(b) PURPOSE.—The purpose of this Act is to strengthen provisions of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.) to—

(1) further promote voluntary efforts to reduce or avoid greenhouse gas emissions and improve energy efficiency;

(2) focus Department of Energy efforts in this area; and

(3) authorize and undertake a long-term research, development, and demonstration program to—

(A) develop new and enhance existing technologies that reduce or avoid anthropogenic emissions of greenhouse gases;

(B) develop new technologies that could remove and sequester greenhouse gases from emissions streams; and

(C) develop new technologies and practices to remove and sequester greenhouse gases from the atmosphere.

SEC. 3. OFFICE OF GLOBAL CLIMATE CHANGE.

Section 1603 of the Energy Policy Act of 1992 (42 U.S.C. 13383) is amended—

(1) in the section heading, by striking ''**DIRECTOR OF CLIMATE PROTECTION**'' and inserting ''**OFFICE OF GLOBAL CLIMATE CHANGE**''; and

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

''(a) ESTABLISHMENT.—There is established by this Act in the Department of Energy an Office of Global Climate Change.

''(b) FUNCTION.—The Office shall serve as a focal point for coordinating for the Secretary and Congress all departmental issues and policies regarding climate change and related matters.

''(c) DIRECTOR.—The Secretary shall appoint a director of the Office, who—

''(1) shall be compensated at no less than level IV of the Executive Schedule;

''(2) shall report to the Secretary; and

''(3) at the request of the Committees of the Senate and House of Representatives with appropriation and legislative jurisdiction over programs and activities of the Department of Energy, shall report to Congress on the activities of the Office.'';

(3) in the second sentence, by striking ''The Director'' and inserting the following:

''(d) DUTIES.—The Director''; and

(4) in subsection (c) (as designated by paragraph (2)), by striking paragraphs (2) and (3) and inserting the following:

''(2) participate, in cooperation with other federal agencies, in the development and monitoring of domestic and international policies for their effects of any kind on climate change globally and domestically and on the generation, reduction, avoidance, and sequestration of greenhouse gases;

''(3) develop and implement a balanced, scientifically sound, nonadvocacy educational and informative public awareness program on—

''(A) potential global climate change, including any known adverse and beneficial effects on the United States and the economy of the United States and the world economy, taking into consideration whether those effects are known or expected to be temporary, long-term, or permanent; and

''(B) voluntary means and measures to mitigate or minimize significantly adverse effects and, where appropriate, to adapt, to the greatest extent practicable, to climate change;

''(4) provide, consistent with applicable provisions of law (including section 1605 (b)(3)), public access to all information on climate change, effects of climate change, and adaptation to climate change;

''(5) promote and cooperate in the research, development, demonstration, and diffusion of environmentally sound, cost-effective and commercially practicable technologies, practices and processes that avoid, sequester, control, or reduce anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol for all relevant economic sectors, including, where appropriate, the transfer of environmentally sound, cost-effective and commercially practicable technologies, practices, and processes developed with Federal funds by the Department of Energy or any of its facilities and laboratories to interested persons in the United State and to developing country Parties to the United Nations Framework Convention on Climate Change, and Parties thereto with economies in transition to market-based economies, consistent with, and subject to, any applicable Federal law, including patent and intellectual property laws, and any applicable contracts, and taking into consideration the provisions and purposes of section 1608; and

''(6) have the authority to participate in the planning activities of relevant Department of Energy programs.''.

SEC. 4. NATIONAL INVENTORY AND VOLUNTARY REPORTING OF GREENHOUSE GASES.

(a) Section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) is amended—

(1) by amending the second sentence of subsection (a) to read as follows: ''The Administrator of the Energy Information Administration shall annually update and analyze such inventory using available data, including beginning in calendar year 2001, information collected as a result of voluntary reporting under subsection (b). The inventory shall identify for calendar year 2001 and thereafter the amount of emissions reductions attributed to those reported under subsection (b).''

(2) by amending subsection (b)(1)(B) and (C) to read as follows:

''(B) annual reductions or avoidance of greenhouse gas emissions and sequestration and carbon fixation achieved through any measures, including agricultural activities, cogeneration, appliance efficiency, energy efficiency, forestry activities that increase carbon sequestration stocks (including the use of forest products), fuel switching, management of grasslands and drylands, manufacture or use of vehicles with reduced greenhouse gas emissions, methane recovery, ocean seeding, use of renewable energy, chlorofluourocarbon capture and replacement, and power plant heat rate improvement; and''

''(C) reductions in, or avoidance of, greenhouse gas emissions achieved as a result of voluntary activities domestically, or internationally, plant or facility closings, and State or Federal requirements.''

(3) by striking in the first sentence of subsection (b)(2) the word ''entities'' and inserting ''persons or entities'' and in the second sentence of such subsection, by inserting after ''Persons'' the words ''or entities'';

(4) by inserting in the second sentence of subsection (b)(4) the words ''persons or'' before ''entity''; and

(5) by adding after subsection (b)(4) the following new paragraphs—

''(5) RECOGNITION OF VOLUNTARY REDUCTIONS OR AVOIDED EMISSIONS OF GREENHOUSE GASES.—In order to encourage and facilitate new and increased voluntary efforts on a continuing basis, particularly by persons and entities in the private sector, to reduce global emissions of greenhouse gases, including voluntary efforts to limit, control, sequester, and avoid such emissions, the Secretary shall promptly develop and establish, after an opportunity for public comment of at least 60 days, a program of giving annual public recognition, beginning not later than January 31, 2001, to all reporting persons and entities demonstrating, pursuant to the voluntary collections and reporting guidelines issued under this section, voluntarily achieved greenhouse gases reductions, including such information reported prior to the enactment of this paragraph. Such recognition shall be based on the information certified, subject to 18 U.S.C. 1001, by such persons or entities for accuracy as provided in paragraph 2 of this subsection. At a minimum such recognition shall annually be published in the Federal Register.

''(6) CHANGES IN GUIDELINES TO IMPROVE ACCURACY AND RELIABILITY.—The Secretary of Energy, through the Administrator of the Energy Information Administration, shall conduct a review, which shall include an opportunity for public comment, of what, if any, changes should be made to the guidelines established under this section regarding the accuracy and reliability of greenhouse gas reductions and related information reported under this section. Any such review shall give considerable weight to the voluntary nature of this section and to the purpose of encouraging voluntary greenhouse gas emission reductions by the private sector. Changes to be reviewed shall include the need for, and the appropriateness of—

''(A) a random or other verification process using the authorities available to the Administrator under other provisions of law;

''(B) a range of reference cases for reporting of project-based activities in sectors, including, but not limited to, the measures specified in subparagraph (1)(B) of this subsection, and the inclusion of benchmark and default methodologies for use in the reference cases for 'greenfield' projects; and

''(C) provisions to address the possibility of reporting, inadvertently or otherwise, of some or all of the same greenhouse gas emissions reductions by more than one reporting entity or person and to make corrections where necessary.

The review should consider the costs and benefits of any such changes, the impacts on

encouraging participation in this section, including by farmers and small businesses, and the need to avoid creating undue economic advantages or disadvantages for persons or entities of the private sector. The review should provide, where appropriate, a range of reasonable options that are consistent with the voluntary nature of this section and that will help further the purposes of this section. The review should be available in draft form for public comment of at least 45 days before it is submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Commerce of the House of Representatives. Such submittal should be made by December 31, 2000. If the Secretary, in consultation with the Administrator, finds, based on the study results, that such changes are likely to be beneficial and cost effective in improving the accuracy and reliability of reported greenhouse gas reductions and related information, are consistent with the voluntary nature of this section, and furthers the purposes of this section, the Secretary shall propose and promulgate, consistent with such finding, such guidelines, together with such findings. In carrying out the provisions of this paragraph, the Secretary shall consult with the Secretary of Agriculture and the Administrator of the Small Business Administration to facilitate greater participation by small business and farmers in this subsection for the purpose of addressing greenhouse gas emission reductions and reporting such reductions.''

(6) in subsection (c), by inserting ''the Secretary of the Department of Agriculture, the Secretary of the Department of Commerce, the Administrator of the Energy Information Administration, and'' before ''the Administrator''.

(b) The Secretary shall revise, after opportunity for public comment, the guidelines issued under section 1605(b) of the Energy Policy Act of 1992 to reflect the amendments made to such section 1605(b) by subsection (a)(2) through (4) of this section not later than 18 months after the date of enactment of this Act. Such revised guidelines shall specify their effective date.

(c) The provisions of subsection (a)(5) and (6) of this section shall be effective on the date of enactment of this Act.

SEC. 5. CLIMATE TECHNOLOGY RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.

Subtitle B of title XXI of the Energy Policy Act of 1992 (42 U.S.C. 13471) is amended by adding the following new subsection—

''SEC. 2120. CLIMATE TECHNOLOGY RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.

''(a) PURPOSE.—The purpose of this section is to direct the Secretary to further the goals of development and commercialization of technologies, through widespread application and utilization of which will assist in stabilizing global concentrations of greenhouse gases, by the conduct of a long-term research, development, and demonstration program undertaken with selected industry participants or consortia.

''(b) PROGRAM.—The Secretary, in consultation with the Advisory Board established under section 2302, shall establish a long-term Climate Technology Research, Development, and Demonstration Program, in accordance with sections 3001 and 3002.

''(c) PROGRAM OBJECTIVES.—The program shall foster—

''(1) development of new technologies and the enhancement of existing technologies that reduce or avoid anthropogenic emissions of greenhouse gases and improve energy efficiency;

''(2) development of new technologies that are able to remove and sequester greenhouse gases from emissions streams; and

''(3) development of new technologies and practices to remove and sequester greenhouse gases from the atmosphere.

''(d) PROGRAM PLAN.—

''(1) INITIAL PLAN.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 10-year program plan to guide activities under this section.

''(2) BIENNIAL UPDATE.—The Secretary shall biennially update and resubmit the program plan to the Congress.

''(e) PROPOSALS.—

''(1) SOLICITATION.—Not later than one year after the date of submittal of the 10-year program plan, and consistent with section 3001 and 3002, the Secretary shall solicit proposals for conducting activities consistent with the 10-year program plan and select one or more proposals not later than 180 days after such solicitation.

''(2) QUALIFICATIONS.—In order for a proposal to be considered by the Secretary, an applicant shall provide evidence that the applicant has in existence—

''(A) the technical capability to enable it to make use of existing research support and facilities in carrying out its research objectives;

''(B) a multi-disciplinary research staff experienced in—

''(i) energy generation, transmission, distribution and end-use technologies; or

''(ii) technologies or practices able to sequester, avoid, or capture greenhouse gas emissions; or

''(iii) other directly related technologies or practices;

''(C) access to facilities and equipment to enable the conduct of laboratory-scale testing or demonstration of technologies or related processes undertaken through the program.

''(3) PROPOSAL CRITERIA.—Each proposal shall—

''(A) demonstrate the support of the relevant industry by describing—

''(i) how the relevant industry has participated in deciding what research activities will be undertaken;

''(ii) how the relevant industry will participate in the evaluation of the applicant's progress in research and development activities; and

''(iii) the extent to which industry funds are committed to the applicant's submission;

''(B) have a commitment for matching funds from non-Federal sources, which shall consist of—

''(i) cash; or

''(ii) as determined by the Secretary, the fair market value of equipment, services, materials, appropriate technology transfer activities, and other assets directly related to the proposal's cost;

''(C) include a single-year and multi-year management plan that outline how the research and development activities will be administered and carried out;

''(D) state the annual cost of the proposal and a breakdown of those costs; and

''(E) describe the technology transfer mechanisms that the applicant will use to make available research results to industry and to other researchers.

''(4) CONTENTS OF PROPOSALS.—A proposal under this subsection shall include—

''(A) an explanation of how the proposal will expedite the research, development, demonstration, and commercialization of technologies capable of—

''(i) reducing or avoiding anthropogenic emissions of greenhouse gases;

''(ii) removing and sequestering greenhouse gases from emissions streams; or

''(iii) removing and sequestering greenhouse gases from the atmosphere.

''(B) evidence of consideration of whether the unique capabilities of Department of Energy national laboratories warrant collaboration with those laboratories, and the extent of the collaboration proposed;

''(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations;

''(D) evidence of the ability of the applicant to undertake and complete the proposed project;

''(E) evidence of applicant's ability to successfully introduce the technology into commerce, as demonstrated by past experience and current relationships with industry; and

''(F) a demonstration of continued financial commitment during the entire term of the proposal from all industrial sectors involved in the technology development.

''(f) SELECTION OF PROPOSALS.—From the proposals submitted, the Secretary shall select for funding one or more proposals that—

''(1) will best result in carrying out needed research, development, and demonstration related to technologies able to assist in the stabilization of lobal greenhouse gas concentrations through one or more of the following approaches—

''(A) improvement in the performance of fossil-fueled energy technologies;

''(B) development of greenhouse gas capture and sequestration technologies and processes;

''(C) cost reduction and acceleration of deployment of renewable resource and distributed generation technologies;

''(D) development of an advanced nuclear generation design; and

''(E) improvement in the efficiency of electrical generation, transmission, distribution, and end use;''

''(F) design and use of—

''(i) closed-loop multi-stage industrial processes that minimize raw material consumption and waste streams;

''(ii) advanced co-production systems (such as coal-based chemical processing and biomass fuel processing); and

''(iii) recycling and industrial-ecology programs integrating energy efficiency.

''(2) represent research and development in specific areas identified in the program plan developed biennially by the Secretary and submitted to Congress under subsection (c);

''(3) demonstrate strong industry support;

''(4) ensure the timely transfer of technology to industry; and

''(5) otherwise best carry out this section.

''(g) ANNUAL PROGRESS REPORTS.—The Director of the Office of Science and Technology, in consultation with the Director of the Office of Management and Budget, shall prepare and submit an annual report to Congress that—

''(1) certifies that the program objectives are adequately focused, peer-reviewed and merit-reviewed, and not unnecessarily duplicative with the science and technology research being conducted by other Federal agencies and agents, and

''(2) state whether the program as conducted in the prior year addresses an adequate breadth and range of technologies and solutions to address anthropogenic climate change, including—

''(A) capture and sequestration of greenhouse gas emissions;

''(B) development of photovoltaic, high-efficiency coal, advanced nuclear, and fuel cell generation technologies;

''(C) cost reduction and acceleration of deployment of renewable resource and distrbuted generation technologies; and

''(D) improvement in the efficiency of electrical generation, transmission, distribution, and end use;

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2001 through 2010, to remain available until expended. This authorization is supplemental to existing authorities and shall not be construed as a cap on the Department of Energy's Research, Development and Demonstration programs''.

SEC. 6. COMPREHENSIVE PLAN AND IMPLEMENTING PROGRAM FOR ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

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

(B) in paragraph (3) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) solutions to the effective management of greenhouse gas emissions in the long term by the development of technologies and practices designed to—

''(A) reduce or avoid anthropogenic emissions of greenhouse gases;

''(B) remove and sequester greenhouse gases from emissions streams; and

''(C) remove and sequester greenhouse gases from the atmosphere.''; and

(2) in subsection (b)—

(A) in paragraph (2), by striking ''subdivision (a)(1) through (3)'' and inserting ''paragraphs (1) through (4) of subsection (a); and

(B) in paragraph (3)—

(i) in subparagraph (R), by striking ''and'' at the end;

(ii) in subparagraph (S), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including—

''(i) the accelerated commercial demonstration of low-cost and high efficiency photovoltaic power systems;

''(ii) advanced clean coal technology;

''(iii) advanced nuclear power plant designs;

''(iv) fuel cell technology development for cost-effective application in residential, industrial and transportation applications;

''(v) low cost carbon sequestration practices and technologies including biotechnology, tree physiology, soil productivity and remote sensing;

''(vi) hydro and other renewables;

''(vii) electrical generation, transmission and distribution technologies and end use technologies; and

''(viii) bio-energy technology.''

SEC. 7. DEFINITIONS.

For the purpose of this Act and the provisions of the Energy Policy Act of 1992 (42 U.S.C. 13381, et seq.) and the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) which statutes are amended by this Act, these terms are defined as follows:

''(1) AGRICULTURAL ACTIVITY.—The term 'agricultural activity' means livestock production, cropland cultivation, biogas recovery and nutrient management.

''(2) CLIMATE CHANGE.—The term 'climate change' means a change of climate which is attributed directly or indirectly to human activity which is in addition to natural climate variability observed over comparable time periods.

''(3) CLIMATE SYSTEM.—The term 'climate system' means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions.

''(4) GREENHOUSE GASES.—The term 'greenhouse gases' means those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation.

''(5) GREENHOUSE GAS REDUCTION.—The term 'greenhouse gas reduction' means 1 metric ton of greenhouse gas (expressed in terms of carbon dioxide equivalent) that is voluntarily certified to have been achieved under section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385).

''(6) GREENHOUSE GAS SEQUESTRATION.—The term 'greenhouse gas sequestration' means extracting one or more greenhouse gases from the atmosphere or an emissions stream through a technological process designed to extract and isolate those gases from the atmosphere or an emissions stream; or the natural process of photosynthesis that extracts carbon dioxide from the atmosphere and stores it as carbon in trees, roots, stems, soil, foliage, or durable wood products.

''(7) FOREST PRODUCTS.—The term 'forest products' means all products or goods manufactured from trees.

(8) FORESTRY ACTIVITY.—

''(A) IN GENERAL.—The term 'forestry activity' means any ownership or management action that has a discernible impact on the use and productivity of forests.

''(B) INCLUSIONS.—Forestry activities include, but are not limited to, the establishment of trees on an area not previously forested, the establishment of trees on an area previously forested if a net carbon benefit can be demonstrated, enhanced forest management (e.g., thinning, stand improvement, fire protection, weed control, nutrient application, pest management, other silvicultural practices), forest protection or conservation if a net carbon benefit can be demonstrated, and biomass energy (using wood, grass or other biomass in lieu of fossil fuel).

''(C) EXCLUSIONS.—The term 'forest activity' does not include a land use change associated with—

''(i) an act of war; or

''(ii) an act of nature, including floods, storms, earthquakes, fires, hurricanes, and tornadoes.

''(9) MANAGEMENT OF GRASSLANDS AND DRYLANDS.—The term 'management of grasslands and drylands' means seeding, cultivation, and nutrient management.

''(10) OCEAN SEEDING.—The term 'ocean seeding' means adding nutrients to oceans to enhance the biological fixation of carbon dioxide.''.

Mr. BYRD. Mr. President, I join with my distinguished colleagues, Senators MURKOWSKI, HAGEL, CRAIG, HUTCHINSON, GRAMS, and ROBERTS, in cosponsoring the Energy and Climate Policy Act of 1999 which was introduced earlier today. The legislation provided in this bill is one of a number of options that the U.S. could undertake to improve energy efficiency and security and reduce greenhouse gas emissions. While the complex issue of climate change will not be solved by a single bill or action, this legislaiton provides additional funding for research and development for important programs that I have long supported, like clean coal technologies, an American-developed initiative. The bill would also take steps to coordinate and implement energy efficiency research as well as begin the process of better reporting greehouse gas reductions at the Department of Energy.

If substantial steps are going to be taken globally to reduce greenhouse gas emissions, we must accelerate the development and commercialization of new technologies, anticipate changing conditions, and encourage public/private partnerships. Both developing and industrialized nations must find ways to tackle this complex and multi-faceted problem. There is no single answer—there is no one silver bullet to fix this issue.

Any viable climate change policy must include efforts to develop cleaner and more efficient fossil fuel-based energy production in order to meet growing energy needs. Clean coal technologies must be a part of that solution. When one examines the increase in global greenhouse gas emissions over the next several decades, the utilization of clean coal technologies is essential. Nations that are serious about reducing greenhouse gas emissions in the long term, especially many of the largest developing nations like China, cannot ignore clean coal technologies.

In 1984, I proposed, and the Congress adopted, a $750 million Clean Coal Technology program. Originally, the program was designed to achieve long-term, real reductions in acid rain. Since then, the program has expanded, thanks to a joint government-industry investment of more than $6 billion. This investment has led to 40 first-of-a-kind projects in 18 states, including an array of high-technology ideas that can spearhead a new era of clean, efficient power plants which will continue to burn our nation's abundant coal resources. Much useful technology has resulted from this synergy of effort between government and private investment by incorporating leading-edge federal laboratories and practical business applications. More needs to be done, and the Energy and Climate Policy Act of 1999 seeks to fuel this synergy by encouraging more public-private projects in all areas of energy production and use. This boost will help to move ideas into reality.

It is critical that the U.S. find better ways to use our own energy resources by encouraging more research and development. These initiatives have both environmental and economic benefits. This bill provides an additional $200 million per year for ten years for research, development, and demonstration programs through competitive grants. It would also take further steps to coordinate and implement energy research and development. These programs build upon the many voluntary efforts that government at all levels and industry have already undertaken to improve energy use as well as to reduce, avoid, or sequester greenhouse gas emissions. All sectors of the economy should be able to benefit from these programs.

In addition to its many benefits at home, the clean coal technology program can also provide an economically beneficial and environmentally sound solution in the international market. According to the coal industry, coal production will continue to increase

worldwide. Coal can be a cost-competitive source of fuel for electricity generation, but, like other fossil fuels, it will require improvements in its environmental credentials. Developing nations are currently searching for cost-effective ways to upgrade their older, higher-polluting power plants and to expand their power production capacity. These nations can learn from our experiences and utilize our new technologies to combat these problems. I note that during the recent visit of Chinese Premier Zhu Rongji, the U.S. and China both agreed that more should be done to employ clean coal technologies.

After 2015, China is expected to surpass the U.S. as the world's largest emitter of greenhouse gases. Global warming is a global problem. It is not just an American problem. It is not just a European problem. And as such, it requires a global solution. Industrialized nations' efforts to reduce our own greenhouse gas emissions will be for naught unless reductions are also made by nations like China and India. Coal will continue to be a major source of their energy production; therefore, clean coal technologies are essential to their responsible growth. The U.S. must support further efforts to encourage clean coal and other energy efficient technologies and to take them from the drawing board to the marketplace. Funding for these programs is pointless unless our government works in conjunction with the private sector to break down market barriers and prove the viability of such programs in the global market.

Research, development, and demonstration programs provide numerous benefits to improve air quality standards, increase our energy efficiency, and reduce greenhouse gases. While the intent of this bill is independent of the Kyoto Protocol, this legislation, in addition to its many other benefits, could help the U.S. in addressing climate change challenges that might result from the implementation of any future treaty.

In its present form, the Kyoto Protocol does not meet the conditions outlined in S. Res. 98, which passed the Senate on July 25, 1997; namely, it must include developing country participation as well as provide sufficient detail to explain the economic impact of such an agreement for the United States. I recognize that the Protocol is a work in progress. The international negotiations to bring it into compliance with S. Res. 98 will require perseverance and patience and are part of a long-term effort to address global climate change. The Administration has not submitted the Kyoto Protocol to the Senate for its advice and consent and has indicated it has no intention of doing so in the foreseeable future. the Administration has indicated that it needs at least two additional years to complete negotiations on the Buenos Aires Action Plan which includes negotiating major aspects of the Protocol such as developing country participation, emissions trading, the Clean Development Mechanism, and forest and soil sinks. The Administration has also pledged not to implement any portion of the Kyoto Protocol prior to its advice and consent in the Senate. I hope that that pledge will continue to be honored.

Over the last year and a half, a number of economic studies have been completed, but we have yet to see a comprehensive analysis of the Kyoto Protocol. I remain firmly convinced that it is critical that the United States knows in some detail the probable costs and benefits of the specific actions proposed to address global climate change.

In summary, improved resource use, energy efficiency and security, and global climate change will all be critical issues for every nation in the new millennium. Market-based solutions and research and development funding will play a vital role in addressing these issues. By cosponsoring the Energy and Climate Policy Act of 1999, I hope that U.S. firms can receive additional funding to help increase research and development for important new technologies. These initiatives, in addition to other market-based solutions, could provide vehicles for real improvements in energy efficiency as well as reductions in greenhouse gas emissions, and an important marketable solution for global participation in such reductions.

Mr. CRAIG. Mr. President, I rise today to join with my distinguished colleagues, Senators MURKOWSKI, HAGEL, BYRD, and others, in introducing the Energy and Climate Policy Act of 1999. I commend Chairman MURKOWSKI and Senators HAGEL and BYRD for their leadership on this very important legislation.

Sufficient scientific information and public interest exist to justify the encouragement and acknowledgment of responsible actions by private entities to reduce greenhouse gas emissions, even though all scientific, technological, economic, and public policy questions have not yet been resolved.

The global climate issue presents profound questions in these areas that require comprehensive, integrated resolution. Current scientific research, experimentation, and data collection are not adequately coordinated or focused on answering key questions within the United States, as well as internationally.

Moreover, public access to scientific, economic, and public policy information is severely limited. The public's right to know is not being satisfied. Open and balanced discussion leading to public support for best approaches to climate policy resolution is urgently needed.

This measure does not depend on future regulatory mandates, an approach preferred by the current Administration to reduce greenhouse gas emissions. It also provides a valid alternative to S. 547, the Credit for Voluntary Reductions Act, introduced recently by my friends and colleague Senator JOHN CHAFEE. The key difference between Senator CHAFEE's bill and our bill is that our bill is not dependent on the Kyoto protocol or any other regulatory mandate.

It is my belief, Mr. President, that voluntary measures should be encouraged through incentives rather than in anticipation of future domestic or international regulatory mandates.

Mr. President, I am also very concerned about the Administration's strong desire to drastically cut carbon and its seeming willingness to do so by whatever regulatory measure available. Demonstrative evidence of the Administration's thinking on this issue is contained in the April 10, 1998, EPA General Counsel memo to Carol Browner, describing EPA's authority to regulate carbon dioxide under the Clean Air Act.

This memo, in my opinion, clearly overstates EPA's authority to regulate pollutants under the Clean Air Act. Moreover, this memo is indicative of the Administration's penchant for finding regulatory fixes for problems. Its allies in this campaign are those in the international community who are either indifferent to, or against our economic interests. we all know, or should know, that at this moment in history, when you cap carbon you cap economic growth.

We need a whole new paradigm for handling this serious political issue. People care about it on all sides, and now Congress will be involved in this issue during this session. Let's get serious about the science and fully inform the American people so that whatever the outcome, they'll know that their government was working for them and not against their important economic interests.

Let's force the current Administration to stop politicizing science and get to the point where the issue is confidently understood. There is simply no compelling reason for our government at this time to force Americans to take preventive measures of uncertain competence against a problem that may or may not lie in the earth's future.

It is for these reasons that I, along with Senators MURKOWSKI, HAGEL, and others, are continuing to work on the next step in this very important response to the climate change issue—a more comprehensive proposal that will include provisions that address:

(1) Policy mechanisms for assessing the effects of greenhouse gas emissions;

(2) Accelerated development and deployment of climate response technology;

(3) International deployment of technology to mitigate climate change;

(4) The advancement of climate science; and

(5) Improving public access to government information on the broad spectrum of scientific opinion on the causes and effects of climate change.

Mr. President, significant greenhouse gas emission reductions can be achieved through voluntary measures that are warranted even as we answer yet unresolved key questions about the global and regional climates.

What is required now is an approach that will encourage public support for appropriate action. I believe this bill paves the way for such public support, and, by reasonably addressing the important economic and political issues associated with the current climate change debate, sets the proper tone for future discourse that will ultimately lead to a safe and economically prudent resolution of this highly charged issue.

Mr. GRAMS. Mr. President, I rise today to support the efforts of Senator MURKOWSKI and Senator HAGEL by cosponsoring the Energy and Climate Policy Act of 1999.

This legislation marks a turning point in how we address the potential problems associated with global climate change.

It addresses these potential problems not by mandating draconian reductions in energy use and hiking energy taxes, but by providing America's businesses and innovators with the tools they need to make long-term, substantive carbon dioxide emissions reductions.

One of the problems with the administration's support of the Kyoto Protocol is that while they have already agreed to legally-binding greenhouse gas emissions reductions, the GAO found last year that the administration does not have quantitative performance goals for the money they intend to spend on their intiatives.

In other words, the administration has agreed to a treaty with legally-binding reductions and they clearly want to spend a lot of money to reach those limits—but they don't have any idea how much of an impact all of their spending will have on emissions reductions.

This legislation says ''let's take a different road.'' The Murkowski-Hagel bill will establish a new research, development and demonstration program that promotes technologies and practices which allow energy users to avoid or reduce greenhouse gas emissions.

Those technologies include alternative energy technologies, energy efficiency technologies, and technologies that take current energy production processes and make them better and more efficient.

The bill will also promote technologies that remove and sequester greenhouse gases from the atmosphere and emissions streams.

This bill is aimed at involving the private sector in our decisionmaking processes and bringing them to the table as well. It is aimed at putting American ingenuity to work whether it be in the home, at the business, or out on the farm. The Murkowski-Hagel bill simply says that we recognize our responsibility to reduce or sequester greenhouse gas emissions and we are taking substantive, long-term steps to that rising challenge.

The Murkowski-Hagel bill does not start from the premise that we are to blame for the theoretical impacts of global warming. It doesn't attempt to punish American businesses by forcing them to reduce their energy consumption or by bankrupting them through higher energy prices. This bill does not accept the long-held beltway view that Washington knows best. It recognizes that American businesses and individuals can do tremendous things when they are challenged to do better and when Government is their partner rather than their adversary.

I sincerely hope that all Members of the Senate can support this piece of legislation so that it can pass into law as soon as possible. I look forward to continuing to work with Senators MURKOWSKI and HAGEL and others interested to continue our efforts to both protect the environment and strengthen the American economy as we enter into the 21st century.

While I am here this morning, I would like to renew my request to President Clinton that he submit the recently signed Kyoto Protocol to the Senate for ratification. Mr. President, the United States Senate has clearly expressed its interest in this matter and its opposition to any attempts to implement the Treaty prior to Senate advice and consent.

In the 105th Congress, the Senate undertook a number of activities which illustrated these concerns. First, S. Res. 98 unanimously expressed the Senate's position on both the projected economic impacts of the Treaty and the participation of developing nations.

Second, in a series of measures, including the FY99 Energy and Water Appropriations Bill, the FY99 Department of Defense Appropriations Bill, the Strom Thurmond National Defense Authorization Act, and the FY99 VA, HUD, and Independent Agencies Appropriations Act, the Senate expressed its concern with any attempts at premature implementation and Administration actions which advance the provisions of the Treaty prior to Senate advice and consent. It is my understanding that the Administration has largely ignored the provisions of those pieces of legislation.

While President Clinton has long maintained that he will not submit the Treaty to the Senate prior to obtaining ''meaningful'' developing nation participation, his recent actions clearly demonstrate that he will not withdraw U.S. support, regardless of what the final agreement may be.

By signing the Treaty on November 12, 1998, while allowing an additional two years for continued negotiations on elements critical to the Treaty's impact on our nation, he has predetermined the outcome and weakened our nation's negotiating position. And despite the Senate's unanimous framework provided within S. Res. 98, there has been little substantive progress towards obtaining any ''meaningful'' participation among developing nations.

I can only conclude that the Administration's premature signing of this Treaty was based on political considerations that should never have been factored into such an important decision. Under no circumstances should a Treaty be signed until we agree with its principals. Just briefly, as I conclude, once a Treaty has been signed by the United States, it should immediately be sent to the Congress for ratification, not used for political purposes.

So again, I strongly urge the President to submit the Kyoto Protocol, which he has already signed, to the Senate for ratification. If he believes it is important enough to sign and to implement through backdoor tactics, then he should also believe it is important enough to for Congress, the people's voice, to have an opportunity to review it, debate it, and vote on its ratification.

I believe the Senate must have the opportunity to examine the Treaty now and debate it openly before the American people.

By Mr. BIDEN:

S. 883. A bill to authorize the Attorney General to reschedule certain drugs that pose an imminent danger to public safety, and to provide for the rescheduling of the date-rape drug and the classification of a certain ''club'' drug; to the Committee on the Judiciary.

THE NEW DRUGS OF THE 1990S CONTROL ACT

Mr. BIDEN. Mr. President, the best time to target a new drug with uncompromising enforcement pressure is before abuse of that drug has overwhelmed our communities.

That is why I introduced legislation in previous Congresses to place tight federal controls on the date rape drug Rohpynol—also known as Roofies—which was becoming known as the Quaalude of the Nineties as its popularity spreads throughout the United States.

My bill would have shifted Rohpynol to schedule 1 of the Federal Controlled Substances Act. Rescheduling is important for three simple reasons:

First, Federal re-scheduling triggers increases in State drug law penalties, and since we all know that more than 95 percent of all drug cases are prosecuted at the State level, not by the Federal Government, it is vitally important that we re-schedule.

Second, Federal re-scheduling to schedule 1 triggers the toughest Federal penalties—up to a year in prison and at least a $1,000 fine for a first offense of simple possession.

And, third, re-scheduling has proven to work. In 1984, I worked to reschedule Quaaludes, Congress passed the law, and the Quaalude epidemic was greatly reduced. And, in 1990, I worked to reschedule steroids, Congress passed the law, and again a drug epidemic that had been on the rise was reversed.

Despite evidence of a growing Rohpynol epidemic, some argued that my efforts to reschedule the drug by legislation were premature. Accordingly, I agreed to hold off on legislative action and wait for a Drug Enforcement Administration decision on whether to schedule the drug through the lengthy and cumbersome administrative process.

As I predicted, the DEA report on Rohpynol—handed down in November—correctly concludes that despite the rapid spread of Rohpynol throughout the country, DEA cannot re-schedule Rohpynol by rulemaking at this time.

The report notes, however, that Congress is not bound by the bureaucratic re-scheduling process the DEA must follow. Congress can—and in my view should—pass legislation to reschedule Rohpynol.

Sepcifically the report states: ''This inability to reschedule [Rohpynol] administratively * * * does not affect Congress' ability to place [the drug] in schedule 1 through the legislative process''—as we did with Quaaludes in 1984 and Anabolic Steroids in 1990.

Let me also note that the DEA report confirmed a number of facts about the extent of the Rohpynol problem:

DEA found more than 4,000 documented cases—in 36 States—of sale or possession of the drug, which is not marketed in the United States and must be smuggled in.

''In spite of DEA's inability to reschedule [Rohpynol] through administrative proceedings, DEA remains very concerned about the abuse'' of the drug.

''Middle and high school students have been known to use [Rohpynol] as an alternative to alcohol to achieve an intoxicated state during school hours. [The drug] is much more difficult to detect than alcohol, which produces a characteristic odor.''

''DEA is extremely concerned about the use of [Rohpynol] in the commission of sexual assaults.''

''The number of sexual assaults in which [Rohpynol] is used may be underreported''—because the drug's effects often cause rape victims to be unable to remember details of their assaults and because rape crisis centers, hospitals, and law enforcement have only recently become aware that Rohpynol can be used to facilitate sex crimes.

Nonetheless, ''DEA is aware of at least 5 individuals who have been convicted of rape in which the evidence suggests that [the Rohypnol drug] was used to incapacitate the victim.'' ''The actual number of sexual assault cases involving [the drug] is not known. It is difficult to obtain evidence that [the Rohypnol drug] was used in an assault.''

I would also note that my efforts to re-schedule this drug have already had beneficial results: The manufacturer of Rohypnol recently announced that it had developed a new formula to minimize the potential for abuse of the drug in sexual assaults.

This is an important step. But pills produced under the old Rohypnol formula are still in circulation, and pills made by other manufacturers can still be smuggled in. Furthermore, the new formula will not prevent kids from continuing to ingest this dangerous drug voluntarily for a cheap high.

In short, stricter, Federal controls remain necessary; and DEA is powerless to respond to Rohypnol abuse until the problem gets even worse.

Therefore, I am reintroducing my bill to re-schedule Rohypnol in schedule 1 of the Controlled Substances Act. I urge my colleagues to support this effort to take action against this dangerous drug now, rather than waiting for the problem to develop into an epidemic.

My bill also places ''Special K''—ketamine hydrochloride—a dangerous hallucinogen very similar to PCP, on schedule III of the Controlled Substances Act. Despite Special K's rising popularity as a ''club drug'' of choice among kids, the drug is not even illegal in most States. This has crippled State authorities' ability to fight ketamine abuse.

For example, in Federal 1997, two men accused of stealing ketamine from a Ville Platte, Louisiana veterinary clinic and cooking the drug into a powder could not be prosecuted under State drug control laws because ketamine is not listed as a Federal controlled substance.

Similarly, a New Jersey youth recently found to be possessing and distributing ketamine could be charged with only a disorderly persons offense.

Prosecutors are trying to combat increased Ketamine use by seeking lengthy prison terms for possession of the drugs—like marijuana—that users mix with Ketamine, but if it is just Special K, there's nothing they can do about it.

I am convinced that scheduling Ketamine will help our effort to fight the spread of this dangerous drug by triggering increases in State drug law penalties.

Without Federal scheduling, many States will not be able to address the Ketamine problem until it is too late and Special K has already infiltrated their communities.

Medical professions who use Ketamine—including the American Veterinary Medical Association and the American Association of Nurse Anesthetists—support scheduling, having determined that it will accomplish our goal of ''preventing the diversion and unauthorized use of Ketamine'' while allowing ''continued, responsible use'' of the drug for legitimate purposes. [Letter from Mary Beth Leininger, D.V.M., President of the American Veterinary Medical Association]

And the largest manufacturer of Ketamine has concluded that ''moving the product to schedule III classification is in the best interest of the veterinary industry and the public.'' [Letter from E. Thomas Corcoran, President of Fort Dodge Animal Health, a Division of American Home Products Corporation].

Scheduling Ketamine will give State authorities the tools they desperately need to fight its abuse by young people—and end the legal anomaly that leaves those who sell Ketamine to our children beyond the reach of the law—even when they are caught ''red-handed.'' I urge my colleagues to support this legislation.

In addition to raising controls on Rohypnol and Ketamine, the legislation I am introducing today would increase the ability of the Attorney General to respond to new drug emergencies in the future.

Our Federal drug control laws currently allow the Attorney General limited authority to respond to certain new drugs on an emergency basis—by temporarily subjecting them the strictest Federal control while the extensive administrative procedure for permanent scheduling proceeds.

But the Attorney General has not been able to use this authority to respond to the Rohypnol and Special K emergencies—because she does not have authority to—move drugs from one schedule to another, or to schedule drugs that the Food and Drug Administration has allowed companies to research but not to sell.

This amendment would grant the administration this important authority by—authorizing the Attorney General to move a scheduled drug—like Rohypnol—to schedule I in an Emergency; by applying emergency rescheduling authority to ''investigational new drugs''—like Special K—that the Food and Drug Administration has approved for research purposes only, but not for marketing.

And by providing that a rescheduling drug remains on the temporary schedule until the administrative proceedings reach a final conclusion on whether to schedule. This legislation would give the Attorney General the necessary tools to respond quickly when evidence appears that a drug is being abused. I urge my colleagues to support the bill.

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

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

S. 883

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 ''New Drugs of the 1990's Control Act''.

SEC. 2. ATTORNEY GENERAL AUTHORITY TO RESCHEDULE CERTAIN DRUGS POSING IMMINENT DANGER TO PUBLIC SAFETY.

Section 201(h) of the Controlled Substances Act (21 U.S.C. 811(h)) is amended—

(1) by striking paragraph (1) and inserting the following: ''(1) If the Attorney General determines that the scheduling of a substance, or the rescheduling of a scheduled

substance, on a temporary basis is necessary to avoid an imminent hazard to the public safety, the Attorney General may, by order and without regard to the requirements of subsection (b) relating to the Secretary of Health and Human Services, schedule the substance—

''(A) in schedule I if no exemption or approval is in effect for the substance under section 355; or

''(B) in schedule II if the substance is not listed in schedule I;''; and

(2) in paragraph (2)—

(A) by inserting ''or rescheduling'' after ''scheduling'' each place it appears; and

(B) by striking ''for up to six months'' and inserting ''until a final order becomes effective''.

SEC. 3. RESCHEDULING OF DATE-RAPE DRUG.

Notwithstanding section 201 or subsection (a) or (b) of section 202 of the Controlled Substances Act (21 U.S.C. 811; 812(a); 812(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order, transfer flunitrazepam from schedule IV of such Act to schedule I of such Act.

SEC. 4. CLASSIFICATION OF THE "CLUB" DRUG "SPECIAL K".

Notwithstanding section 201 or subsection (a) or (b) of section 202 of the Controlled Substances Act (21 U.S.C. 811; 812(a); 812(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order, add ketamine hydrochloride to schedule III of such Act.

By Mr. SARBANES (for himself, Mr. TORRICELLI, and Mr. HUTCHINSON):

S. 884. A bill to establish the National Military Museum Foundation, and for other purposes; to the Committee on Armed Services.

NATIONAL MILITARY MUSEUM FOUNDATION ACT

Mr. SARBANES. Mr. President, today I am introducing on behalf of myself, Mr. HUTCHINSON, and Mr. TORRICELLI, legislation to create a National Military Museum Foundation. The purpose of this legislation is to encourage and facilitate private-sector support in the effort to preserve, interpret and display the important role the military has played in the history of our nation. This legislation is, in my judgment, crucial at this particular moment in history, when we are on the verge of jeopardizing two-centuries worth of military artifacts and negating the possibility of such collections in the future.

It has been the long-standing tradition of the U.S. Department of War and its successor, the Department of Defense, to preserve our historic military artifacts. Since the days of the revolution to the conflict in Bosnia, Americans have been proud of the role that our military has had in safeguarding our democracy, and we have tried to ensure that future generations will know that role. Over the years we have accumulated a priceless collection of military artifacts from every period of American history and every technological era. The collection includes flags, uniforms, weapons, paintings and historic records as well as full-size tanks, ships and aircraft which document history and provide provenance for our nation and armed services.

In recent years, however, the dedicated individuals who identify, interpret, catalog and showcase those artifacts have found themselves shortchanged and shorthanded. With financial resources diminishing, not only are we cheating ourselves out of the military treasures currently warehoused out of public sight, but we are in danger of lacking the funds to update our collections with new items.

''A morsel of genuine history,'' wrote Thomas Jefferson to John Adams in 1817, ''is a thing so rare as to be always valuable.'' Mr. President, today, significant pieces of our military history are being lost, shoved into basements, or subject to decay. With each year also comes less funding, and our artifacts are multiplying at a pace that exceeds the capabilities of those who are trying to preserve them. Since 1990 alone, the services have closed 21 military museums and at least eight more are expected to close in the next few years.

We cannot let this proceed any further. Military museums are vital to documenting our history, educating our citizenry and advancing our technology. More than 86 museums in 31 states and the District of Columbia daily instill Americans from veterans to new recruits to elementary school students with a sense of the sacred responsibility that military servicemen bear to defend the values that have made this country great.

Military museums teach our servicemen the history of their units, enhancing their understanding both of the team of which they are a part and the significance of the service they have pledged to perform. And when a museum makes history come alive to young children, those children learn for themselves that what this country stands for and the sacrifices that have been made to preserve the freedoms we often take for granted.

Many of our servicemen have learned their military history through these artifacts rather than textbooks, and many of our technological advances have come as a direct result of these artifacts. The ship models and ordinances at U.S. Naval Academy Museum in Annapolis, MD, for example, have been used by the Academy's Departments of Gunnery and Seamanship. It has also been reported that a study of an existing missile system, preserved in an Army museum, saves the Strategic Defense Initiative $25 million in research and analysis costs. These museums serve as laboratories where engineers can learn from the lessons of the past without going through the same trial and error process as their predecessors.

Yet without adequate funding, these benefits will be lost forever. According to a 1994 study conducted by the Advisory Council on Historic Preservation entitled, ''Defense Department Compliance with the National Historic Preservation Act,'' the Department of Defense's management of these resources has been ''mediocre,'' with the cause attributed to ''inadequate staffing and funding.''

More than 80 percent of the museums studied said their survival relies heavily on outside funding. When asked about their greatest needs, the response was nearly always staff and money. And those museums that reported sufficient staffing from volunteers nevertheless said that the dearth of funds for restoration and construction paralyzed them from fully utilizing the available labor.

According to the study, money is so tight that brochures and pamphlets are often unaffordable, leaving visitors with no explanations about the objects that have come to see. A young child might be duly impressed by the sight of a stern-faced general, but the historical lesson is greatly diminished if the child is not told the significance of the event portrayed or why the general looked so grim that day.

Perhaps most distressing, the study reported ''substantial collections of rare or unique historical military vehicles and equipment that are unmaintained and largely unprotected due to lack of funds and available expertise.'' In addition, the museums were found to be struggling so much with the care of items already in house, that they were unable to accept new ones. With a new class of military artifacts from the Vietnam and Gulf Wars soon to be retired, one wonders whether those artifacts will be preserved. If we do not take action to save what we have and acquire what we don't, future generations will see these pockets of negligence as blank pages in the living history books that these museums truly are.

Only a Foundation can address these problems. The alternate solution—to press the services to devote more money to these institutions—is implausible in this budgetary climate. The Secretary of Defense must place his highest priority on the readiness of our forces. Closely allied to that priority is the effort to improve the quality of life for our citizens on active duty. And, as aging equipment faces obsolescence, the Secretary has indicated that the future will bring an increased emphasis on replacing weapons systems. By all realistic assumptions, the amount of funds appropriated for museums is likely to continue downward.

My bill recognizes the growing need for a reliable source of funding aside from federal appropriations. A National Military Museum Foundation would provide an accessible venue for individuals, corporations or other private sources to support the preservation of our priceless military artifacts and records. A National Military Museum Foundation could also play an important role in surveying those artifacts that we know to exist. Currently, these is no museum oversight or coordination of museum activities on the DOD level. A wide-ranging Foundation survey would therefore not only eliminate duplication, but would most likely discover gaps in our collections that must be filled before it is too late.

Under the proposed legislation, the Secretary of Defense would appoint the Foundation's Board of Directors and provide basic administrative support. To launch the Foundation, the legislation authorizes an initial appropriation of $1 million. It is anticipated that the Foundation would be self sufficient after the first year. This is a small price to pay to save some of our most precious treasures.

This legislation is modeled on legislation that established similar foundations, such as the National Park Foundation and the National Fish and Wildlife Foundation, both of which have succeeded in raising private-sector support for conservation programs. My bill is not intended to supplant existing Federal funding or other foundation efforts that may be underway, but rather to supplement those efforts.

The premise for establishing a national foundation is, in part, to elevate the level of fund raising beyond the local level, supplementing those efforts by seeking donations from potentially large donors. I also want to emphasize the inclusiveness of the Foundation, which will represent all the branches of our armed services.

Mr. President, statistics reveal that foundations established without the mandate of a federal statute and the backing of an established agency seldom succeed. With ever-diminishing federal funds, we cannot expect the Department to put our military museums ahead of national security. Truly, an outside source committed to sustaining our museums is imperative. I urge my colleagues to support this important legislation.

By Mr. BIDEN:

S. 885. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to provide incentives for the development of drugs for the treatment of addiction to illegal drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE NEW MEDICINES TO TREAT ADDICTION ACT OF 1999

Mr. BIDEN. Mr. President, today I am introducing the New Medicines to Treat Addiction Act of 1999, legislation that builds upon my efforts in previous Congresses to promote research into and development of new medicines to treat the ravages of hard core drug addiction.

Since the first call to arms against illegal drugs, we have learned just how insidious hard-core drug addiction is, even as the ravages of substance abuse—on both the addict and the addict's victims—have become ever more apparent. The frustration in dealing with a seemingly intractable national problem is palpable, most noticeably in the heated rhetoric as politicians blame each other for the failure to find a cure. What gets lost underneath the noise is the recognition that we have not done everything we can to fight this problem and that, like all serious ills, we must take incremental steps one at a time, and refuse to be overwhelmed by the big picture.

Throughout my tenure as chairman of the Senate Judiciary Committee, I called for a multifaceted strategy to combat drug abuse. One of the specific steps I advocated was the creation of incentives to encourage the private sector to develop medicines that treat addiction, an area where promising research has not led—as one would normally expect—to production of medicines. The bill I am introducing today, the New Medicines To Treat Addiction Act of 1999, will hopefully change that. It takes focused aim at one segment of the drug-abusing population—hardcore addicts, namely users of cocaine and heroin—in part because these addicts are so difficult to treat with traditional methods, and in part because this population commits such a large percentage of drug-related crime.

In December, 1989, I commissioned a Judiciary Committee report, ''Pharmacotherapy: A Strategy for the 1990's.'' In that report, I posed the question, ''If drug use is an epidemic, are we doing enough to find a medical 'cure' for this disease?'' The report gave the answer ''No.'' Unfortunately, now a decade later, the answer remains the same. Developing new medicines for the treatment of addiction should be among our highest medical research priorities as a nation. Until we take this modest step, we cannot claim to have done everything reasonable to address the problem, and we should not become so frustrated that we effectively throw up our hands and do nothing.

Recent medical advances have increased the possibility of developing medications to treat drug addiction. These advances include a heightened understanding of the physiologist and psychological characteristics of drug addiction and a greater base of neuroscientific research.

One example of this promising research is the recent development of a compound that has been proven to immunize laboratory animals against the effects of cocaine. The compound works like a vaccine by stimulating the immune system to develop an antibody that blocks cocaine from entering the brain. Researchers funded through the National Institute of Drug Abuse believe that this advance may open a whole new avenue for combating addiction.

Despite this progress, we still do not have a medication to treat cocaine addiction or drugs to treat many other forms of substance abuse, because the private sector is unsure of the wisdom of making the necessary investment in the production and marketing of such medicines.

Privarte industry has not aggressively developed pharmacotherapies for a variety of reasons, including a small customer base, difficulties distributing medication to the target population, and fear of being associated with substance abusers. We need to create financial incentives to encourage pharmaceutical companies to develop and market these treatments. And we need to develop a new partnership between private industry and the public sector in order to encourage the active marketing and distribution of new medicines so they are accessible to all addicts in need of treatment.

While pharmacotherapies alone are not a ''magic bullet'' that will solve our national substance abuse problem, they have the potential to fill a gap in current treatment regimens. The disease of addiction occurs for many reasons, including a variety of personal problems which pharmaco therapy cannot address. Still, by providing a treatment regimen for drug abusers who are not helped by traditional methods, pharmacotherapy holds substantial promise for reducing the crime and health crisis that drug abuse is causing in the United States.

The New Medicines To Treat Addiction Act of 1999 would encourage and support the development of medicines to treat drug addiction in three ways.

It reauthorizes and increases funding for Medications Development Program at the National Institute of Health, which for years has been at the forefront of research into drug addition.

The bill also creates two new incentives for private sector companies to undertake the difficult but important task of developing medicines to treat addiction.

First, the bill would provide additional patient protections for companies that develop drugs to treat substance abuse. Under the bill, pharmacotherapies could be designated 'orphan drugs' and qualify for an exclusive seven-year patent to treat specific addiction. These extraordinary patent rights would greatly enhance the market value of pharmacotherapies and provide a financial reward for companies that invest in the search to cure drug addiction. This provision was contained in a bill introduced by Senator Kennedy and me in 1990, but was never acted on by Congress.

Second, the bill would establish a substantial monetary reward for companies that develop drugs to treat cocaine and heroin addiction but shift the responsibility for marketing and distributing such drugs to the government. This approach would create a financial incentive for drug companies to invest in research and development but enable them to avoid any stigma associated with distributing medicine to substance abusers.

The bill would require the National Academy of Sciences to develop strict guidelines for evaluating whether a drug effectively treats cocaine or heroin addiction. If a drug meets these guidelines and is approved by the Food and Drug Administration, then the government must purchase the patent rights for the drug from the company that developed it. The purchase rights for the patent rights is established by

law: $100 million for a drug to treat cocaine addiction and $50 million for a drug to treat heroin addiction. Once the government has purchased the patent rights, then it is responsible for producing the drug and distributing it to clinics, hospitals, state and local governments, and any other entities qualified to operate drug treatment programs.

This joint public/private endeavor will correct the market inefficiencies that have thus far prevented the development of drugs to treat addiction and require the government to take on the responsibilities that industry is unwilling or unable to perform.

America's drug problems is reduced each and every time a drug abuser quits his or her habit. Fewer drug addicts mean fewer crimes, fewer hospital admissions, fewer drug-addicted babies and fewer neglected children. The benefits to our country of developing new treatment options such as pharmacotherapies are manifold. Each dollar we spend on advancing options in this area can save us ten or twenty times as much in years to come. The question isn't ''Can we afford to pursue a pharmacotherapy strategy?'' but rather, ''Can we afford not to?''

Congress has long neglected to adopt measures I have proposed to speed the approval of and encourage greater private sector interest in pharmaco therapy. We cannot let another Congress conclude without rectifying our past negligence on this issue. I urge my colleagues to join me in promoting an important, and potentially ground breaking, approach to addressing one of our Nation's most serious domestic challenges.

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

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

S. 885

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 ''New Medications to Treat Addiction Act of 1999''.

TITLE I—PHARMACOTHERAPY RESEARCH

SEC. 101. REAUTHORIZATION FOR MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) of the Public Health Service Act (42 U.S.C. 285o–4(e)) is amended to read as follows:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2000 through 2002 of which the following amount may be appropriated from the Violent Crime Reduction Trust Fund:

''(1) $100,000,000 for fiscal year 2001; and

''(2) $100,000,000 for fiscal year 2002.''.

TITLE II—PATENT PROTECTIONS FOR PHARMACOTHERAPIES

SEC. 201. RECOMMENDATION FOR INVESTIGATION OF DRUGS.

Section 525(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa(a)) is amended—

(1) in the first sentence, by striking ''States'' and inserting ''States, or for treatment of an addiction to illegal drugs,'';

(2) in the second sentence, by striking ''States'' and inserting ''States, or for treatment of an addiction to illegal drugs''; and

(3) by striking ''such disease or condition'' each place it appears and inserting ''such disease or condition, or treatment of such addiction,''.

SEC. 202. DESIGNATION OF DRUGS.

Section 526(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)) is amended—

(1) in paragraph (1)—

(A) by inserting before the period in the first sentence the following: '', or for treatment of an addiction to illegal drugs'';

(B) in the third sentence, by striking ''rare disease or condition'' and inserting ''rare disease or condition, or for treatment of an addiction to illegal drugs,'';

(C) by striking ''such disease or condition,'' and inserting ''such disease or condition, or treatment of such addiction,''; and

(D) by striking ''such disease or condition.'' and inserting ''such disease or condition, or treatment of such addiction.''; and

(2) in paragraph (2)—

(A) by striking ''(2) For'' and inserting ''(2)(A) For'';

(B) by striking ''(A) affects'' and inserting ''(i) affects'';

(C) by striking ''(B) affects'' and inserting ''(ii) affects''; and

(D) by adding at the end the following:

''(B) For purposes of this subchapter, the term 'treatment of an addiction to illegal drugs' means treatment by any pharmacological agent or medication that—

''(i) reduces the craving for an illegal drug for an individual who—

''(I) habitually uses the illegal drug in a manner that endangers the public health, safety, or welfare; or

''(II) is so addicted to the use of the illegal drug that the individual is not able to control the addiction through the exercise of self-control;

''(ii) blocks the behavioral and physiological effects of an illegal drug for an individual described in clause (i);

''(iii) safely serves as a replacement therapy for the treatment of abuse of an illegal drug for an individual described in clause (i);

''(iv) moderates or eliminates the process of withdrawal from an illegal drug for an individual described in clause (i);

''(v) blocks or reverses the toxic effect of an illegal drug on an individual described in clause (i); or

''(vi) prevents, where possible, the initiation of abuse of an illegal drug in individuals at high risk.

''(C) The term 'illegal drug' means a controlled substance identified under schedules I, II, III, IV, and V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).''.

SEC. 203. PROTECTION FOR DRUGS.

Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended—

(1) in subsection (a), by striking ''rare disease or condition,'' and inserting ''rare disease or condition, or for treatment of an addiction to illegal drugs,'';

(2) in subsection (b), by striking ''rare disease or condition'' and inserting ''rare disease or condition, or for treatment of an addiction to illegal drugs,'';

(3) by striking ''such disease or condition'' each place it appears and inserting ''such disease or condition, or treatment of such addiction,''; and

(4) in subsection (b)(1), by striking ''the disease or condition'' and inserting ''the disease, condition, or addiction''.

SEC. 204. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS.

Section 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360dd) is amended—

(1) by striking ''rare disease or condition'' and inserting ''rare disease or condition, or for treatment of an addiction to illegal drugs,''; and

(2) by striking ''the disease or condition'' each place it appears and inserting ''the disease, condition, or addiction''.

SEC. 205. CONFORMING AMENDMENTS.

(a) SUBCHAPTER HEADING.—The subchapter heading of subchapter B of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa et seq.) is amended by striking ''CONDITIONS'' and inserting ''CONDITIONS, OR FOR TREATMENT OF AN ADDICTION''.

(b) SECTION HEADINGS.—The section heading of sections 525 through 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa through 360dd) are amended by striking ''CONDITIONS'' and inserting ''CONDITIONS, OR FOR TREATMENT OF AN ADDICTION''.

(c) FEES.—Section 736(a)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(a)(1)(E)) is amended—

(1) in the subparagraph heading, by striking ''ORPHAN'';

(2) by striking ''for a rare disease or condition'' each place it appears and inserting ''for a rare disease or condition, or for treatment of an addiction to illegal drugs,''; and

(3) in the first sentence, by striking ''rare disease or condition.'' and inserting ''rare disease or condition, or other than for treatment of an addiction to illegal drugs, respectively.''.

TITLE III—ENCOURAGING PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPIES

SEC. 301. DEVELOPMENT, MANUFACTURE, AND PROCUREMENT OF DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

''Subchapter F—Drugs for Cocaine and Heroin Addictions

''SEC. 571. CRITERIA FOR AN ACCEPTABLE DRUG TREATMENT FOR COCAINE AND HEROIN ADDICTIONS.

''(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall, in cooperation with the Institute of Medicine of the National Academy of Sciences, establish criteria for an acceptable drug for the treatment of an addiction to cocaine and for an acceptable drug for the treatment of an addiction to heroin. The criteria shall be used by the Secretary in making a contract, or entering into a licensing agreement, under section 572.

''(b) REQUIREMENTS.—The criteria established under subsection (a) for a drug shall include requirements—

''(1) that the application to use the drug for the treatment of addiction to cocaine or heroin was filed and approved by the Secretary under this Act after the date of enactment of this section;

''(2) that a performance based test on the drug—

''(A) has been conducted through the use of a randomly selected test group that received the drug as a treatment and a randomly selected control group that received a placebo; and

''(B) has compared the long term differences in the addiction levels of control group participants and test group participants;

''(3) that the performance based test conducted under paragraph (2) demonstrates that the drug is effective through evidence that—

''(A) a significant number of the participants in the test who have an addiction to cocaine or heroin are willing to take the drug for the addiction;

''(B) a significant number of the participants in the test who have an addiction to cocaine or heroin and who were provided the drug for the addiction during the test are willing to continue taking the drug as long as necessary for the treatment of the addiction; and

''(C) a significant number of the participants in the test who were provided the drug for the period of time required for the treatment of the addiction refrained from the use of cocaine or heroin, after the date of the initial administration of the drug on the participants, for a significantly longer period than the average period of refraining from such use under currently available treatments (as of the date of the application described in paragraph (1)); and

''(4) that the drug shall have a reasonable cost of production.

''(c) REVIEW AND PUBLICATION OF CRITERIA.—The criteria established under subsection (a) shall, prior to the publication and application of such criteria, be submitted for review to the Committee on the Judiciary, and the Committee on Education and the Workplace, of the House of Representatives, and the Committee on the Judiciary, and the Committee on Health, Education, Labor, and Pensions, of the Senate. Not later than 90 days after notifying each of the committees, the Secretary shall publish the criteria in the Federal Register.

''SEC. 572. PURCHASE OF PATENT RIGHTS FOR DRUG DEVELOPMENT.

''(a) APPLICATION.—

''(1) IN GENERAL.—The patent owner of a drug to treat an addiction to cocaine or heroin, may submit an application to the Secretary—

''(A) to enter into a contract with the Secretary to sell to the Secretary the patent rights of the owner relating to the drug; or

''(B) in the case in which the drug is approved under section 505 by the Secretary for more than 1 indication, to enter into an exclusive licensing agreement with the Secretary for the manufacture and distribution of the drug to treat an addiction to cocaine or heroin.

''(2) REQUIREMENTS.—An application described in paragraph (1) shall be submitted at such time and in such manner, and accompanied by such information, as the Secretary may require.

''(b) CONTRACT AND LICENSING AGREEMENTS.—

''(1) REQUIREMENTS.—The Secretary may enter into a contract or a licensing agreement described in subsection (a) with a patent owner who has submitted an application in accordance with subsection (a) if the drug covered under the contract or licensing agreement meets the criteria established by the Secretary under section 571(a).

''(2) SPECIAL RULE.—The Secretary may, under paragraph (1), enter into—

''(A) not more than 1 contract or exclusive licensing agreement relating to a drug for the treatment of an addiction to cocaine; and

''(B) not more than 1 contract or licensing agreement relating to a drug for the treatment of an addiction to heroin.

''(3) COVERAGE.—A contract or licensing agreement described in subparagraph (A) or (B) of paragraph (2) shall cover not more than 1 drug.

''(4) PURCHASE AMOUNT.—Subject to amounts provided in advance in appropriations Acts—

''(A) the amount to be paid to a patent owner who has entered into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to cocaine shall not exceed $100,000,000; and

''(B) the amount to be paid to a patent owner who has entered into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to heroin shall not exceed $50,000,000.

''(c) TRANSFER OF RIGHTS UNDER CONTRACTS AND LICENSING AGREEMENT.—

''(1) CONTRACTS.—A contract under subsection (b)(1) to purchase the patent rights relating to a drug to treat cocaine or heroin addiction shall transfer to the Secretary—

''(A) the exclusive right to make, use, or sell the patented drug within the United States for the term of the patent;

''(B) any foreign patent rights held by the patent owner with respect to the drug;

''(C) any patent rights relating to the process of manufacturing the drug; and

''(D) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug.

''(2) LICENSING AGREEMENTS.—A licensing agreement under subsection (b)(1) to purchase an exclusive license relating to manufacture and distribution of a drug to treat an addiction to cocaine or heroin shall transfer to the Secretary—

''(A) the exclusive right to make, use, or sell the patented drug for the purpose of treating an addiction to cocaine or heroin within the United States for the term of the patent;

''(B) the right to use any patented processes relating to manufacturing the drug; and

''(C) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug relating to use of the drug to treat an addiction to cocaine or heroin.

''SEC. 573. PLAN FOR MANUFACTURE AND DEVELOPMENT.

''(a) IN GENERAL.—Not later than 90 days after the date on which the Secretary purchases the patent rights of a patent owner, or enters into a licensing agreement with a patent owner, under section 572, relating to a drug under section 571, the Secretary shall develop a plan for the manufacture and distribution of the drug.

''(b) PLAN REQUIREMENTS.—The plan shall set forth—

''(1) procedures for the Secretary to enter into licensing agreements with private entities for the manufacture and the distribution of the drug;

''(2) procedures for making the drug available to nonprofit entities and private entities to use in the treatment of a cocaine or heroin addiction;

''(3) a system to establish the sale price for the drug; and

''(4) policies and procedures with respect to the use of Federal funds by State and local governments or nonprofit entities to purchase the drug from the Secretary.

''(c) APPLICABILITY OF PROCUREMENT AND LICENSING LAWS.—Federal law relating to procurements and licensing agreements by the Federal Government shall be applicable to procurements and licenses covered under the plan described in subsection (a).

''(d) REVIEW OF PLAN.—

''(1) IN GENERAL.—Upon completion of the plan under subsection (a), the Secretary shall notify the Committee on the Judiciary, and the Committee on Education and the Workplace, of the House of Representatives, and the Committee on the Judiciary, and the Committee on Health, Education, Labor, and Pensions, of the Senate, of the development of the plan and publish the plan in the Federal Register. The Secretary shall provide an opportunity for public comment on the plan for a period of not more than 30 days after the date of the publication of the plan in the Federal Register.

''(2) FINAL PLAN.—Not later than 60 days after the date of the expiration of the comment period described in paragraph (1), the Secretary shall publish in the Federal Register a final plan described in subsection (a). The implementation of the plan shall begin on the date of the publication of the final plan.

''(e) CONSTRUCTION.—The development, publication, or implementation of the plan, or any other agency action with respect to the plan, shall not be considered agency action subject to judicial review. No official or court of the United States shall have power or jurisdiction to review the decision of the Secretary on any question of law or fact relating to any agency action with respect to the plan.

''(f) REGULATIONS.—The Secretary may promulgate regulations to carry out this section.

''SEC. 574. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of fiscal years 2000 through 2002.''.

By Mr. SHELBY:

S. 887. A bill to establish a moratorium on the Foreign Visitors Program at the Department of Energy nuclear laboratories, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF ENERGY SENSITIVE COUNTRY FOREIGN VISITORS MORATORIUM ACT OF 1999

Mr. SHELBY. Mr. President, today I am introducing a bill to impose a moratorium on the foreign visitors program at the Department of Energy's (DOE) nuclear laboratories. The bill prohibits the Secretary of Energy from admitting any person from a ''sensitive country'' to our national laboratories, unless the Secretary of Energy personally certifies to the Congress that the visit is necessary for the national security of the United States.

A ''sensitive country'' is a country that is considered dangerous to the United States and that may want to acquire our nuclear weapons secrets.

Mr. President, the Senate Intelligence Committee has been critical of the Department of Energy's counterintelligence program for nearly ten years. Beginning in 1990, we identified serious shortfalls in funding and personnel dedicated to protecting our nation's nuclear secrets. Year after year, the Committee has provided additional funds and directed many reviews and studies in an effort to persuade the Department of Energy to take action. Unfortunately, this and prior administrations failed to heed our warnings. Consequently, a serious espionage threat at our national labs has gone virtually unabated and it appears that our nuclear weapons program may have suffered extremely grave damage.

Now, the administration has finally begun to take affirmative steps to address this problem. While I welcome their efforts, I am disappointed that it took a some bad press to motivate them rather than a known threat to our national security. Nevertheless, the Department of Energy has begun the process of repairing the damage caused by years of neglect, but it will take time to make the necessary changes. In fact, it may take years.

In the interim, we must take steps to ensure the integrity of our national labs. I understand that a moratorium on the foreign visitors program may be perceived as a draconian measure. Until the Department fully implements a comprehensive and sustained counterintelligence program, however, I believe that we must err on the side of caution. The stakes are too high.

Mr. President, 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. 887

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 ''Department of Energy Sensitive Country Foreign Visitors Moratorium Act of 1999''.

SEC. 2. MORATORIUM ON FOREIGN VISITORS PROGRAM.

(a) MORATORIUM.—The Secretary of Energy may not admit to any facility of a national laboratory any individual who is a citizen of a nation that is named on the current Department of Energy sensitive countries list.

(b) WAIVER AUTHORITY.—(1) The Secretary of Energy may waive the prohibition in subsection (a) on a case-by-case basis with respect to specific individuals whose admission to a national laboratory is determined by the Secretary to be necessary for the national security of the United States.

(2) Before any such waiver takes effect, the Secretary shall submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives a report in writing providing notice of the proposed waiver. The report shall identify each individual for whom such a waiver is proposed and, with respect to each such individual, provide a detailed justification for the waiver and the Secretary's certification that the admission of that individual to a national laboratory is necessary for the national security of the United States.

(3)(A) A waiver under paragraph (1) may not take effect until a period of 10 days of continuous session of Congress has expired after the date of the submission of the report under paragraph (2) providing notice of that waiver.

(B) For purposes of subparagraph (A)—

(i) the continuity of a session of Congress is broken only by an adjournment of the Congress sine die; and

(ii) there shall be excluded from the computation of the 10-day period specified in that subparagraph Saturdays, Sundays, legal public holidays, and any day on which either House of Congress in not in session because of adjournment of more than three days to a day certain.

(4) The authority of the Secretary under paragraph (1) may not be delegated.

SEC. 3. BACKGROUND CHECKS ON ALL FOREIGN VISITORS TO NATIONAL LABORATORIES.

Before an individual who is a citizen of a foreign nation is allowed to enter a national laboratory, the Secretary of Energy shall require that a security clearance investigation (known as a ''background check'') be carried out on that individual.

SEC. 4. DEFINITIONS.

In this Act:

(1) The term ''national laboratory'' means any of the following:

(A) The Lawrence Livermore National Laboratory, Livermore, California.

(B) The Los Alamos National Laboratory, Los Alamos, New Mexico.

(C) The Sandia National Laboratories, Albuquerque, New Mexico.

(2) The term ''sensitive countries list'' means the list prescribed by the Secretary of Energy known as the Department of Energy List of Sensitive Countries.

By Mr. MURKOWSKI (for himself, Mr. AKAKA, Mr. STEVENS, and Mr. INOUYE):

S. 888. A bill to amend the Internal Revenue Code of 1986 to modify the air transportation tax changes made by the Taxpayer Relief Act of 1977; to the Committee on Finance.

AIR PASSENGER TAXES ON FLIGHTS TO AND FROM ALASKA AND HAWAII

Mr. MURKOWSKI. Mr. President, today, along with Mr. AKAKA, Mr. STEVENS, and Mr. INOUYE, I am introducing legislation that will provide a measure of relief to the citizens of Alaska and Hawaii who must rely on air transport far more than citizens in the lower 48.

When Congress adopted the balanced budget legislation in 1997, one of the provisions of the tax bill re-wrote the formula for calculating the air passenger tax for domestic and international flights. As part of this formula change, Congress adopted a per passenger, per segment fee which disproportionately penalizes travelers to and from Alaska and Hawaii who have no choice but to travel by air.

The legislation we are introducing today would reinstate the prior law 10 percent tax formula for flights to and from our states. In addition, the $6 international departure fees that are imposed on such flights would be retained at the current level and would not be indexed. I see no reason why passengers flying to and from our states must face a guaranteed increase in tax every year because of inflation. We don't index tobacco taxes, we don't index fuel taxes; why should government automatically gain additional revenue from air passengers simply because of inflation?

Mr. President, this legislation requires that intrastate Alaska and Hawaii flights will be subject to a flat 10 percent tax if such flights do not originate or terminate at a rural airport in our states. In addition, the definition of a rural airport is expanded to include airports within 75 miles of each other where no roads connect the communities. This provision not only benefits Alaska, but many island communities throughout the United States. In many towns in Alaska, air transport is the only viable means of transportation from one community to another. There is no reason these airports should be denied the benefit of the special rural airport tax rate simply because our state does not have the transportation infrastructure or geographic definition that exists in most of the lower 48.

Mr. President, 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. 888

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

SECTION 1. MODIFICATIONS TO AIR TRANSPORTATION TAX CHANGES MADE BY TAXPAYER RELIEF ACT OF 1997.

(a) ELIMINATION OF INFLATION ADJUSTMENT FOR TAX ON CERTAIN USE OF INTERNATIONAL TRAVEL FACILITIES.—Section 4261(e)(4) of the Internal Revenue Code of 1986 (relating to inflation adjustment of dollar rates of tax) is amended—

(1) in subparagraph (A), by striking ''each dollar amount contained in subsection (c)'' and inserting ''the $12.00 amount contained in subsection (c)(1)'', and

(2) in subparagraph (B)(ii), by striking ''the dollar amounts contained in subsection (c)'' and inserting ''the $12.00 amount contained in subsection (c)(1)''.

(b) MODIFICATION OF RURAL AIRPORT DEFINITION.—Clauses (i) and (ii) of section 4261(e)(1)(B) of the Internal Revenue Code of 1986 (defining rural airport) are amended to read as follows:

''(i) there were fewer than 100,000 commercial passengers departing by air during the second preceding calendar year from such airport and such airport—

''(I) is not located within 75 miles of another airport which is not described in this clause, or

''(II) is receiving essential air service subsidies as of August 5, 1997, or

''(ii) such airport is not connected by paved roads to another airport.''

(c) IMPOSITION OF TICKET TAX ON SEGMENTS TO AND FROM ALASKA OR HAWAII OR WITHIN ALASKA OR HAWAII AT RATE IN EFFECT BEFORE THE TAXPAYER RELIEF ACT OF 1997.—Section 4261(e) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following:

''(6) SEGMENTS TO AND FROM ALASKA OR HAWAII OR WITHIN ALASKA OR HAWAII.—Except with respect to any domestic segment described in paragraph (1), in the case of transportation involving 1 or more domestic segments at least 1 of which begins or ends in Alaska or Hawaii or in the case of a domestic segment beginning and ending in Alaska or Hawaii—

''(A) subsection (a) shall be applied by substituting ''10 percent'' for the otherwise applicable percentage, and

''(B) the tax imposed by subsection (b)(1) shall not apply.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 7 days after the date of the enactment of this Act.

By Mrs. HUTCHISON (for herself, Mr. SANTORUM, and Mr. COCHRAN):

S. 889. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes; to the Committee on Finance.

COMMERCIAL REVITALIZATION TAX ACT OF 1999

Mrs. HUTCHISON. Mr. President, today I am pleased to introduce, along with Mr. SANTORUM, and Mr. COCHRAN, the Commercial Revitalization Tax Credit Act of 1999. This bill is identical to the bipartisan and widely supported legislation I sponsored during the last session of Congress.

This measure will create jobs, expand economic activity, and revitalize the

physical structure and value of residential and commercial buildings in America's most distressed urban and rural communities.

The bill provides a targeted tax credit to businesses to help defray the cost of construction, expansion, and renovation in these areas, and in the process will generate billions in privately based economic activity in those areas that need the most help in our country.

As we continue to look for ways to combat the decay of our inner cities and to raise the standard of living in many of our rural areas, I believe, and numerous studies demonstrate, that reversing the physical deterioration in America's cities has numerous and far reaching economic benefits. Revitalization in decaying neighborhoods lifts the hopes and expectations of the residents of those areas that economic growth and opportunity is coming their way. Indeed, one of the key recommendations of a top-to-bottom review of law enforcement in this city, our Nation's Capital, was to improve the many abandoned buildings in Washington, D.C. that create an atmosphere conducive to crime and despair.

The Commercial Revitalization Tax Credit Act will build upon the empowerment zone/enterprise community program that is now unfolding over 100 communities in the United States. Texas has five of these specially designated areas: Houston, Dallas, El Paso, San Antonio, and Waco, as well as one rural zone in the Rio Grande valley covering four counties. Not only will these cities qualify for the credit under my bill, but so will the 400 communities in the United States that sought such designation but were not selected. State-established enterprise zones and other specifically designated revitalization districts established by State and local governments will also be able to participate. In all, over 1,000 areas will qualify for this credit nationwide.

Our bill contains the following principle features: A tax credit that may be applied to construction amounting to at least 25 percent of the basis of the property, in designated revitalization areas; qualified investors could choose a one-time 20-percent tax credit against the cost of new construction or rehabilitation. Alternatively, a business owner could take a five percent credit each year over a 10-year period. Tax credits would be allocated to each state, according to a formula, with States and localities determining the priority of the projects. In all, $1.5 billion in tax credits would be allocated under this tax bill.

Mr. President, with a minimum level of bureaucratic involvement and through a proven tax mechanism, this initiative will make a significant difference in the lives of thousands of families in need and for the economies of hundreds of distressed urban and rural communities across this Nation.

I hope my colleagues will join me in supporting this sound and effective pro-growth initiative.

By Mr. WELLSTONE (for himself, Mr. ROBB, and Mr. FEINGOLD):

S. 890. A bill to facilitate the naturalization of aliens who served with special guerrilla units or irregular forces in Laos; to the Committee on the Judiciary.

HMONG VETERANS' NATURALIZATION ACT OF 1999

Mr. FEINGOLD. Mr. President, I am pleased to rise today as an original cosponsor of the Hmong Veterans Naturalization Act of 1999. I commend the Senator from Minnesota [Mr. WELLSTONE] and our colleague in the House of Representatives, Congressman VENTO, for their commitment to this important issue.

I honor the service of the Lao and Hmong veterans to the United States, and appreciate the great personal risk they faced when they chose to help this country. I am pleased that many of them have chosen to make the United States, and my home state of Wisconsin, their adopted homeland.

In my view, Mr. President, this bill, which would expedite the naturalization process for 45,000 Lao and Hmong veterans and their spouses, is the least we can for the help repay the huge debt we owe these brave individuals. I have had the opportunity to meet many Lao and Hmong veterans and their families as I travel throughout Wisconsin. I am struck by the profound importance they place on becoming citizens of the United States. This bill would help them reach that goal.

By Mr. SCHUMER:

S. 891 A bill to amend section 922(x) of title 18, United States Code, to prohibit the transfer to and possession of handguns, semiautomatic assault weapons, and large capacity ammunition feeding devices by individuals who are less than 21 years of age, and for other purposes; to the Committee on the Judiciary.

THE JUVENILE GUN LOOPHOLE CLOSURE ACT

Mr. SCHUMER. Mr. President, I am introducing legislation today to close what I believe is a major loophole in our federal gun laws—a loophole which permits 18–20 year-olds to possess handguns, semiautomatic assault weapons, and large capacity ammunition feeding devices.

Firearms trace data collected as part of the Youth Crime Gun Interdiction Initiative (YCGII) paint a disturbing picture of crime gun activity by persons under 21. In the most recent YCGII Trace Analysis Report, the age of the possessor was known for 32,653, or 42.8 percent, of the 72,260 crime guns traced. Of these 32,563 guns, approximately 4,840, or 14.8 percent, were recovered from 18–20 year-olds. Indeed, the most frequent age of crime gun possession was 19 years of age, and the second most frequent was 18 years of age.

At the same time, according to the 1997 Uniform Crime Reports, the most frequent age arrested for murder was 18 years of age, and the second most frequent was 19 years of age. Those aged 18–20 accounted for 22 percent of all arrest for murder in 1997.

There are indications that the 18-year old girlfriend of one of the two gunmen involved in the tragic Littleton, Colorado school shooting purchased at least two of the firearms used in the attack. Handgun possession by persons 18 or over is not forbidden by Colorado law.

The 1968 Gun Control Act prevents federally licensed gun dealers from selling handguns to anyone under the age of 21. This ban does not apply to sales of handguns by unlicensed persons, however. Federal law only stops such persons from selling handguns to anyone under the age of 18—thus neglecting to ban sales to the 18–20 year-olds who account for such a significant portion of crime gun traces and murders. In another inexplicable oversight, federal law also fails to ban private sales of semiautomatic assault weapons and high-capacity ammunition feeding devices to persons even under the age of 18.

My bill would correct these flaws in our federal gun laws. It would ban sales by unlicensed individuals of handguns, semiautomatic assault weapons, and large capacity ammunition feeding divides to persons under the age of 21. Indeed, it would ban possession of these deadly weapons by persons under 21, with exceptions made for young persons who are members of the Armed Forces or National Guard or use these firearms in self-defense against an intruder to their residences.

This is a common-sense measure that will keep guns out of the hands of those most likely to use guns irresponsibly and dangerously. I urge the Senate to pass this bill into law soon. I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 891

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 ''Juvenile Gun Loophole Closure Act''.

SEC. 2. PROHIBITION ON TRANSFER TO AND POSSESSION OF HANDGUNS, SEMIAUTOMATIC ASSAULT WEAPONS, AND LARGE CAPACITY AMMUNITION FEEDING DEVICES BY INDIVIDUALS LESS THAN 21 YEARS OF AGE.

Section 922(x) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(C) a semiautomatic assault weapon; or

''(D) a large capacity ammunition feeding device.'';

(3) in paragraph (3)—

(A) in subparagraph (B), by inserting '', semiautomatic assault weapon, or large capacity ammunition feeding device'' after ''handgun''; and

(B) in subparagraph (D), by striking ''or ammunition'' and inserting '', ammunition, semiautomatic assault weapon, or large capacity ammunition feeding device''; and

(4) in paragraph (5), by striking ''18'' and inserting ''21''.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. MACK, Mr. BRYAN, Mr. MURKOWSKI, and Mr. BREAUX):

S. 892. A bill to amend the Internal Revenue Code of 1986 to permanently extend the subpart F exemption for active financing income; to the Committee on Finance.

SUBPART F EXCEPTION FOR ACTIVE FINANCING

Mr. HATCH. Mr. President, I am today introducing legislation on behalf of myself, Mr. BAUCUS. Mr. MACK, Mr. BRYAN, Mr. MURKOWSKI, and Mr. BREAUX. This bill would permanently extend the exclusion from Subpart F for active financing income earned on business operations overseas. This legislation permits American financial services firms doing business abroad to defer U.S. tax on their earnings from their foreign financial services operations until such earnings are returned to the U.S. parent company.

The permanent extension of this provision is particularly important in today's global marketplace. Over the last few years the financial services industry has seen technological and global changes that have changed the very nature of the way these corporations do business both here and abroad. The U.S. financial industry is a global leader and plays a pivotal role in maintaining confidence in the international marketplace. It is essential that our tax laws adapt to the fast-paced and ever-changing business environment of today.

The bill we are introducing today would provide a consistent, equitable, and stable international tax regime for this important component of our economy. A permanent extension of this provision will give American companies much deserved stability. The current ''on-again, off-again'' system of annual extension limits the ability of U.S.-based firms to compete fully in the marketplace and interferes with their decision making and long-term planning. The activities that give rise to this income are long-range in nature, not easily stopped and started on a year-to-year basis. Permanency is the only thing that makes sense. After all, the vast majority of the provisions in the tax code are permanent; it is only a select few that are subjected to this annual cycle of extensions.

This legislation will give U.S. based financial services companies consistency and stability. The permanent extension of this exclusion from Subpart F provides tax rules that ensure that the U.S. financial services industry is on an equal competitive footing with their foreign based competitors and, just as importantly, provides tax treatment that is consistent with the tax treatment accorded most other U.S. companies.

This legislation provides the U.S. financial services industry the certainty that they will be able to compete with their foreign competitors now and into the 21st century. This is important to our future economic growth and continued global leadership of American companies in the financial services industry.

Mr. President, 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. 892

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

SECTION 1. PERMANENT SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) BANKING, FINANCING, OR SIMILAR BUSINESSES.—Subsection (h) of section 954 of the Internal Revenue Code of 1986 (relating to special rule for income derived in the active conduct of banking, financing, or similar businesses) is amended by striking paragraph (9).

(b) INSURANCE BUSINESSES.—Subsection (a) of section 953 of such Code (defining insurance income) is amended by striking paragraph (10) and by redesignating paragraph (11) as paragraph (10).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of a foreign corporation beginning after December 31, 1998, and to taxable years of United States shareholders with or within which such taxable years of such foreign corporation end.

Mr. BAUCUS. Mr. President, today I am pleased to join my colleague Senator HATCH in introducing legislation to permanently extend the exception from Subpart F for active financing income earned on overseas business.

United States companies doing business abroad are generally allowed to pay U.S. tax on the earnings from the active operations of their foreign subsidiaries when these earnings are returned to the U.S. parent company. Until recently, U.S.-based finance companies such as insurance companies and brokers, banks, securities dealers, and other financial services firms, have not been afforded similar treatment. The current law provision that is intended to afford America's financial services industry parity with other segments of the U.S. economy expires at the end of 1999. Our legislation, intended to keep the U.S. financial services industry on an equal footing with foreign-based competitors, would make this provision permanent.

The financial services sector is the fastest growing component of the U.S. trade in services surplus (which is expected to exceed $80 billion this year). It is therefore very important that Congress act to maintain a tax structure that does not hinder the competitive efforts of the U.S. financial services industry. That would be the case if the active financing exception to Subpart F were permitted to expire.

The growing interdependence of world financial markets has highlighted the urgent need to rationalize U.S. tax rules that undermine the ability of American financial services industries to compete in the international arena. It is important to ensure that the U.S. tax treatment of worldwide income does not encourage avoidance of U.S. tax through the sheltering of income in foreign tax havens. However, I believe it is possible to adequately protect the federal fisc without jeopardizing the international expansion and competitiveness of U.S.-based financial services companies, including finance and credit entities, commercial banks, securities firms, and insurance companies.

This active financing provision is particularly important today. The U.S. financial services industry is second to none, and plays a pivotal role in maintaining confidence in the international marketplace. Through our network of tax treaties, we have made tremendous progress in negotiating new foreign markets for this industry in recent years. Our tax laws should complement, rather than undermine, this trade effort.

As is the case with other tax provisions such as the Research and Development tax credit, the temporary nature of the U.S. active financing exception denies U.S. companies the certainty enjoyed by their foreign competitors. U.S. companies need to know the tax consequences of their business operations. Over the last two years, U.S. companies have implemented numerous system changes in order to comply with two very different versions of the active financing law, and are unable to take appropriate strategic action if the tax law is not stable.

I ask my colleagues to join me in supporting this legislation, and provide a consistent, equitable, and stable international tax regime for the U.S. financial services industry.

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 893. A bill to amend title 46, United States Code, to provide equitable treatment with respect to State and local income taxes for certain individuals who perform duties on vessels; to the Committee on Commerce, Science, and Transportation.

TRANSPORTATION WORKER TAX FAIRNESS ACT

Mr. GORTON. Mr. President, I rise today to introduce the Transportation Worker Tax Fairness Act. This legislation will ensure that transportation workers who toil away on our nation's waterways receive the same tax treatment afforded their peers who work on the nation's highways, railroads, or navigate the skies.

Truck drivers, railroad personnel, and airline personnel are currently

covered by the Interstate Commerce Act, which exempts their income from double taxation. Water carriers, who work on tugboats or ships, were not included in the original legislation. This treatment is patently unfair. The Transportation Worker Tax Fairness Act will rectify this situation by extending the same tax treatment to personnel who work on the navigable waters of more than one state.

Mr. President, this legislation will have no impact on the federal treasury. This measure simply allows those who work our navigable waterways protection from double taxation.

This matter came to my attention through a series of constituent letters from Columbia River tug boat operators who are currently facing taxation from Oregon as well as Washington state. I am committed to pursuing this avenue of relief for my constituents, as well as hard working tug boat operators across the nation.

Mr. President, 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. 893

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

SECTION 1. AMENDMENT OF CHAPTER 111 OF TITLE 46, UNITED STATES CODE.

Section 11108 of title 46, United States Code, is amended—

(1) by inserting ''(a) WITHHOLDING.—'' before ''WAGES''; and

(2) by adding at the end the following:

''(b) LIABILITY.—

''(1) LIMITATION ON JURISDICTION TO TAX.—An individual to whom this subsection applies is not subject to the income tax laws of a State or political subdivision of a State, other than the State and political subdivision in which the individual resides, with respect to compensation for the performance of duties described in paragraph (2).

''(2) APPLICATION.—This subsection applies to an individual—

''(A) engaged on a vessel to perform assigned duties in more than one State as a pilot licensed under section 7101 of this title or licensed or authorized under the laws of a State; or

''(B) who performs regularly-assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one State.''.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. SPECTER, Mr. COCHRAN, Mr. MOYNIHAN, Mr. SESSIONS, MS. SNOWE, MR. LOTT, Ms. LANDRIEU, Ms. COLLINS, Mr. KENNEDY, Mr. SCHUMER, Mr. SHELBY, Ms. MIKULSKI, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. DODD, Mr. BREAUX, Mr. THURMOND, Mr. CHAFEE, Mr. SMITH of New Hampshire, Mr. SARBANES, Mr. COVERDELL, Mr. CLELAND, Mr. GREGG, Mr. REED, Mr. KERRY, Mr. HELMS, Mr. BYRD, Mr. TORRICELLI, Mr. EDWARDS, Mr. LIEBERMAN, Mr. ASHCROFT, Mr. ROCKEFELLER, Mrs. LINCOLN, Mr. BIDEN, Mr. FRIST, Mr. BOND, and Mr. THOMPSON):

S.J. Res. 22. A joint resolution to re-authorize, and modify the conditions for, the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact; read the first time.

RE-AUTHORIZATION OF THE NORTHEAST DAIRY COMPACT AND RATIFICATION OF THE SOUTHERN DAIRY COMPACT

Mr. JEFFORDS. Mr. President, I rise today to introduce legislation to make permanent the Northeast Interstate Dairy Compact and to ratify a Southern Dairy Compact. I am so pleased to be joined by 38 of my colleagues as original cosponsors of this important legislation.

In 1996, Senator LEAHY and I fought an uphill battle and secured eleventh hour passage of this landmark legislation. We were met with resistance in every step of the legislative process, yet we succeeded in passing the Compact as a three-year pilot program.

The Northeast Compact has a proven record of effectiveness. All eyes have been on New England since the compact became law. The Compact has been studied, audited, and sued—but has always come through with a clean bill of health. Because of the success of the Compact it has served as a model for the entire country. Since the Northeast Compact was approved by Congress as part of the 1996 Farm Bill, it has been extremely successful in balancing the interests of processors, retailers, consumers, and dairy farmers by helping to maintain milk price stability.

The 1996 Farm Bill authorized the Dairy Compact for three years and was originally due to expire in April of 1999. Senator LEAHY and I, during the 1999 Omnibus Appropriations bill, included language that extended the life of the Compact for six additional months. The Compact will expire on October 1, 1999, unless congressional action is taken.

Mr. President, in addition to the six New England states, 23 states have either passed or are considering legislation for dairy compacts that would help both farmers and consumers in their states. During the past year Alabama, Arkansas, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia have passed legislation to form a Southern Dairy Compact. Florida, Georgia, Missouri, Oklahoma, Texas and Kansas are also considering joining the Southern Compact. The Oregon legislature is in the process of developing a Pacific Northwest Dairy Compact as well.

New Jersey, Maryland and New York have passed state legislation enabling them to join the Northeast Dairy Compact. Delaware, Pennsylvania and Ohio may also join if passed in their states. These states have recognized how dairy compacts can help provide stability to the price paid to dairy farmers for the milk they produce, while protecting the interests of consumers and processors. The Dairy Compact Commission that was established by the 1996 Compact legislation is made up of 26 members from the six New England states. The members, which are appointed by each state's governors, consist of consumers, processors, farmers and other state representatives.

The legislation being introduced today, establishes that the dairy compacts may regulate only fluid milk, or Class I milk. It ensure that the dairy compacts compensate the Commodity Credit Corporation for the cost of any purchases of milk by the corporation that result from the operation of the compacts. In addition, the legislation exempts the Woman, Infant and Children (WIC) program from any costs related to the dairy compacts. More importantly, the Daily Compact operates at no costs to the federal government.

A 1998 report by the Office of Management and Budget (OMB) on the economic effects of the Dairy Compact illustrates the Compact's success. The OMB reported that during the first six months of the Compact, consumer prices for milk within the Compact region were five cents lower than retail store prices in the rest of the nation. OMB concluded that the Compact added no federal costs to nutrition programs during this time, and that the Compact did not adversely affect farmers outside the Compact region.

Helping farmers protect their resources and receive a fair price for their products in vital to Vermont's economic base and, indeed, its very heritage as a state. Establishing a fair price for dairy farmers has been an ongoing battle throughout my time on Capitol Hill. Few initiatives in my long memory have sparked such a vigorous policy debate as the Northeast Dairy Compact. I am so pleased and proud at how industry and government leaders from throughout Vermont and the New England region pulled together to pass the Compact. I am also impressed by the tremendous coalition of support for permanent authorization of the Northeast and Southern Dairy Compacts.

The adoption of the Northeast Compact in 1996 simply could not have happened in Congress without the help and dedicated work for the veritable army of Compact supporters from throughout Vermont and the country. This year, our legislation again is supported by Governors, State legislators, consumers and farmers from throughout the country.

Mr. President, on March 5, 1999, the Basic Formula Price (BFP) paid to farmers dropped from $16.27 to $10.27, the largest month to month drop in history, bringing the lowest milk price in about 20 years to dairy farmers. In the beginning of April the full impact to farmers was $7.07 per hundredweight loss from December of 1998's BFP. This drop in price will have a severe negative impact on dairy producers from throughout the country. In New England, the Dairy Compact that currently

exists will help cushion the price collapse, with no cost to the federal government.

Farmers from throughout Vermont and New England have praised the Compact for helping maintain a stable price. ''Without the Northeast Dairy Compact, we would be in real trouble, the price drop would put a lot of people of out business.'' Simply it's a blessing—no, that's an understatement—it's a lifesaver''.

Mr. President, earlier today, I joined several of my Senate and House colleagues on the Capitol lawn to announce the introduction of this important legislation. I was so pleased to see the support and interest for this bill. I urge my colleagues to support this legislation. Give the states their right to join together to help protect their farmers and consumers by supporting this bill.

Mr. LEAHY. Mr. President, I am proud to continue my support for dairy farmers by introducing legislation which will make permanent the Northeast Interstate Dairy Compact and will authorize the Southern Interstate Dairy Compact.

The Northeast Interstate Dairy Compact has proven itself to be a successful and enduring partnership between dairy farmers and consumers throughout New England, and we want to make sure that this partnership continues.

The Northeast Dairy Compact has done exactly what it was established to do: stabilize fluctuating dairy prices and keep New England dairy farmers in business. The Compact provides the perfect safety net for dairy farmers. When milk prices are high, dairy farmers receive no benefits. When milk prices are low, the Compact takes effect, providing temporary benefits to dairy farmers. Yet the Compact costs taxpayers nothing. I don't need to tell you that a zero cost is very unusual among farm programs.

The Compact makes a big difference in the lives of dairy farmers in New England. Since the Compact went into effect one and a half years ago, the attrition rate for farms has declined throughout New England. In fact, the Vermont Department of Agriculture recently announced that since July of last year, there has actually been an increase in farms in Vermont. Just a few years ago, an increase in the number of farms would have been unfathomable. Solid dairy prices coupled with the safety net of the Dairy Compact have caused a rebound in the dairy industry in New England. We can achieve similar success in the South with a Southern Dairy Compact.

Many of our allies from the South have watched the Northeast Dairy Compact survive several legal and political challenges. They have watched milk sales continue without interruption. They have seen the participation in the WIC nutrition program rise because of help from the compact. And, most important, they see how the compact provides a modest but crucial safety net for struggling farmers. They, too, want the same for their farmers and their farmers deserve the opportunity to create their own regional compact.

Compacts are state-initiated, state-ratified and state-supported voluntary programs. And the need for regional compacts has never been greater. Low dairy prices coupled with a disastrous decision on federal milk marketing reform have made the compact more important to us now than ever before. Our legislation is a huge step toward ensuring that the safety net of the Compact will continue.

The fight to continue the Northeast Compact and create the Southern Compact, however, will be tough. Opponents of regional compacts—large and wealthy milk manufacturers, represented by groups such as the International Dairy Foods Association—will again throw millions of dollars into an all-out campaign to stop the compacts. And they will say anything to stop it.

Some of the most common anti-Compact rhetoric that I have heard suggests that the Compact creates a barrier for trade between states within the Compact and states outside of it. On the contrary, as reported by the Office of Management and Budget, the Northeast Dairy Compact has in fact prompted an increase in interstate dairy sales—particularly for milk coming into New England.

Another common anti-Compact argument concerns the impact of the Compact on consumers. However, New England retail milk prices under the Dairy Compact continue to be lower on average than the rest of the nation.

Processor groups who are opposed to dairy compacts simply want milk as cheap as they can get it to boost their enormous profits to record levels, regardless of the impact on farmers. But at some point if a lot of dairy farmers go out of business, IDFA and others might regret what they have caused.

Make no mistake—I do believe that dairy processors deserve to make their fair share of income. However, the farmers that produce the milk deserve to make a fair living. And a fair living is what dairy compacts provide for farmers.

Compacts have been consumer tested and farmer approved, and I look forward to making them a permanent part of our dairy industry.

Mr. SPECTER. Mr. President, I join today with my colleagues from Vermont, Senators JEFFORDS and LEAHY, in introducing legislation to reauthorize the Northeast Dairy Compact and to authorize a Southern Dairy Compact.

This legislation will create a much needed safety net for dairy farmers and will bring greater stability to the prices paid monthly to these farmers. The fill authorizes an Interstate Compact Commission to take such steps as necessary to assure consumers of an adequate local supply of fresh fluid milk and to assure the continued viability of dairy farming within the compact region. Specifically, states that choose to join the compact would enter into a voluntary agreement to create a minimum price for milk within the compact region. This price would take into account the regional differences in the costs of production for milk, thereby providing dairy farmers with a fair and equitable price for their product.

This bill would authorize Pennsylvania, New Jersey, Delaware, New York, Maryland, and Ohio to join the existing Northeast Interstate Dairy Compact. New York, New Jersey, and Maryland have already agreed to join and the Pennsylvania State Legislature is currently considering compact legislation. Further, it would authorize states in the southern part of the country to form a similar compact to provide price stability in this region.

In order to ensure that this legislation does not provide a negative impact to low-income nutrition programs that use a large quantity of dairy products each year, the bill ensures that the Women, Infants and Children (WIC) program and the School Lunch program will not be required to pay higher prices for milk as a result of any action taken by the Compact Commission.

Over the past several years, I have worked closely with my colleagues in the Senate in order to provide a more equitable price for our nation's milk producers. I supported amendments to the Farm Bills of 1981 and 1985, the Emergency Supplemental Appropriations Bill of 1991, the Budget Resolution of 1995 and the most recent Farm Bill in 1996 in an effort to insure that dairy farmers receive a fair price. As a member of the U.S. Senate Agriculture Appropriations Subcommittee, I have worked to ensure that dairy programs have received the maximum possible funding. In the past four years alone, I have worked to obtain almost $1.1 million for dairy research conducted at Penn State University. I have also been a leading supporter of the Dairy Export Incentive Program which facilitates the development of an international market for United States dairy products.

In recent years, however, dairy farmers have faced the dual problems of a record high cost of feed grain and a record drop in the Basic Formula Price paid for dairy products. Prices have fluctuated greatly over the past several years, setting new record highs and lows, thereby making any long-term planning impossible for farmers. Most recently, after reaching an all time high in December of 1998, the Basic Formula Price for milk dropped $5.72 per hundredweight to a price of $11.62 for March 1999. These economic conditions have placed our nation's dairy farmers in an all but impossible position. In order to hear the problems that dairy farmers are facing first hand, I asked Secretary of Agriculture Dan Glickman to accompany me to northeastern Pennsylvania on February 10, 1997. We met a crowd of approximately 750 angry farmers who

rightfully complained about the dramatic fluctuations in the price of milk.

Upon our return to Washington, in an attempt to bring greater stability to the dairy market, I introduced a Sense of the Senate Resolution on February 13, 1997 which passed by a vote of 83–15. The Resolution stated that the Secretary of Agriculture should consider acting immediately to replace the National Cheese Exchange as a factor to be considered in setting the Basic Formula Price for Dairy. I successfully attached an amendment to the 1997 Supplemental Appropriations Act which required the Department of Agriculture to replace the National Cheese Exchange, which had proven to be an unreliable source of price information, with a systematic national survey of cheese producers. As a result of this legislation, the Basic Formula Price increased from $12.46 in February of 1997 to $13.32 in February of 1998, which represented an increase of .86¢ per hundredweight over the course of the year.

Unfortunately, this action alone was not sufficient to bring long-term stability to the dairy market. Consequently, on April 17, 1997, I introduced legislation to require the Secretary of Agriculture to use the price of feed grains and other cash expenses in determining the basic formula price for milk. Further, on September 9, 1997, I joined with Senator FEINGOLD of Wisconsin in introducing S. Res. 119, which urged the Secretary of Agriculture to set a temporary minimum milk price that was equitable to all milk procedures nationwide and provided price relief to economically stressed milk producers.

When we began to see some momentum on the national level to reform the current milk pricing system, we were stopped by a Federal District Court, which in December of 1997 ordered the USDA to scrap the price differentials in the current milk pricing formula. This change would have had a major negative impact on the dairy farmers in Pennsylvania. In reaction to this decision, on December 4, 1997, I wrote to the federal judge, asking him to stay his decision striking down the current Class I dairy pricing formula pending appellate review. Sixty-five Congressman and twenty other Senators signed onto my letter and on December 5, 1997, the Judge granted the requested stay.

After this short victory, we received further bad news earlier this year, when Secretary Glickman released a new rule for setting the Basic Formula Price for dairy. While better than the proposed rule released last year, this new pricing formula will compound the already dire economic position of dairy farmers by removing an additional $196 million each year from the dairy industry nationwide.

Our nation's farmers are some of the hardest working and most dedicated individuals in America. In the past several years, I have visited numerous small dairy farms in Pennsylvania. I have seen these hard working men and women who have dedicated their lives to their farms. The recent drop in dairy prices is an issue that directly affects all of us. We have a duty to ensure that our nation's dairy farmers receive a fair price for their milk. If we do nothing, many small dairy farmers will be forced to sell their farms and leave the agriculture industry. This will not only impact the lives of these farmers, but will also have a significant negative impact on the rural economies that depend on the dairy industry for support. Further, the large-scale departure of small dairy farmers from agriculture could place our nation's steady supply of fresh fluid milk in jeopardy, thereby affecting every American.

We must recognize the importance of this problem and take prompt action. I urge my colleagues to cosponsor this legislation as we continue to work in Congress to bring greater stability to our nation's dairy industry.

Ms. COLLINS. Mr. President, I rise today as a cosponsor of a Joint Resolution to reauthorize the Northeast Interstate Dairy Compact. I am proud to give my support to this measure and do so without hesitation because the New England Dairy Compact is a proven success that is critical to the survival of dairy farmers in Maine and New England.

First approved by Congress in the 1996 Farm Bill, the New England Dairy Compact already has a proven track record of quantifiable benefits to both consumers and farmers. The Compact works by simply evening out the peaks and valleys in fluid milk prices, providing stability to the cost of milk and ensuring a supply of fresh, wholesome, local milk.

Over the past eight months, in particular, the Compact has proven its worth. As prices climbed and farmers were receiving a sustainable price for milk, the Compact turned off, when prices dropped, the Compact was again triggered. The Compact simply softened and slowed the blow to farmers of an abrupt and dramatic drop in the volatile fluid milk market.

It is important to reiterate that consumers also benefit from the Compact. Not only does the Compact stabilize prices, thus avoiding dramatic fluctuation in the retail cost of milk, it also guarantees that the consumer is assured the availability of a supply of fresh, local milk. We've known for a long time that dairy products are an important part of a healthy diet, but recent studies are proving that dairy products provide a host of new nutritional benefits. Just as we are learning of the tremendous health benefits of dairy foods, however, milk consumption, especially among young people, is dropping. It is a crucial, commonsense, first step to reverse this trend, for milk to be available and consistently affordable for young families.

Finally, the Compact, while providing clear benefits to dairy producers and consumers in the Northeast, has proven it does not harm farmers or taxpayers from outside the region. A 1998 report by the Office of Management and Budget showed that, during the first six-months of the Compact, it did not adversely impact farmers from outside the Compact region and added no federal costs to nutrition programs. In fact, this legislation specifically excepts the Women, Infants and Children (WIC) program from any costs related to the Compact.

I would like to thank the Senators from Vermont for their leadership on this critical issue. I look forward to working with them to see this important resolution passed.

Ms. SNOWE. Mr. President, I rise today as a cosponsor of the Senate Joint Resolution not only in support of the reauthorization and modifications for the very successful Northeast Interstate Dairy Compact, but also to grant the consent of Congress for the formation of the Southern Dairy Compact. This issue is really a state rights issue more than anything else, Mr. President. Quite simply, it addresses the needs of states in two different areas of the country, one in the North and one in the South, who wish to work together within their regions for two different and totally independent dairy compacts—in the Northeast to continue and modify their current Compact, and in the Southeast where 10 states wish to work closely together—to form a compact for determining fair prices for locally produced supplies of fresh milk.

As recently as last September, the Congress sanctioned another interstate compact, one that allows states to set regional prices for a commodity. In passing the Texas Compact for the storage of low-level radioactive waste, the states of Texas, Maine and Vermont were given permission to jointly manage and dispose of their low level waste—and are free to set any price they wish for the disposal of the waste. Congress has now approved ten such compacts involving 45 states.

All we are doing here is continuing another states rights activity—dairy compacting, an idea whose time has now come throughout different regions of the country. Currently, New Jersey and Maryland have passed Dairy Compact legislation seeking to join the Northeast Compact. In addition. Delaware, New York, Pennsylvania, and Ohio have expressed interest in joining. A state may join the Compact if they are contiguous to a participating state and Congress approves its entry, and we are asking for Congressional approval to extend this right also to New York, New Jersey, and Maryland.

The Northeast Dairy Compact currently encompasses all New England states and builds on the existing Federal milk marketing order program for Class I, or fluid, milk, and only applies to fluid milk sold on grocery store shelves. As you may know, a federal milk marketing order is a regulation that already sets a minimum milk price in different areas around the

country, of which the Northeast region is one, and is voluntarily initiated and approved by a majority of producers in each milk marketing order area, which places requirements on the first buyers or handlers of milk from dairy farmers.

Currently, the Northeast Interstate Dairy Compact allows the New England milk marketing order region to add a small increment to the Federal order price for that region, which is the floor price, so only the consumers and the processors in the New England region pay to support the minimum price to provide for a fairer return to the area's family dairy farms and to protect a way of life important to the people of the Northeast.

Mr. President, the Northeast Interstate Dairy Compact has provided the very safety net that we had hoped for when the Compact passed as part of the Freedom to Farm Act, the omnibus farm bill, of 1996. The Dairy Compact has helped farmers maintain a stable price for fluid milk during times of volatile swings in farm milk prices. In the spring and summer months of 1997 and 1998, for instance, when milk prices throughout most U.S. markets dropped at least 20 cents a gallon while consumer prices remained constant, the payments to Northeast Interstate Compact dairy farmers remained above the federal milk marketing prices for Class I fluid milk because of the Dairy Compact—and, I might add, at no expense to the federal government. The costs to operate the Dairy Compact are borne entirely by the farmers and processors of the Compact region.

Also, in considering what has happened to the number of dairy farms staying in business since the formation of the Dairy Compact, it is now known that throughout New England, there has been a decline in the loss of dairy farmers since the Compact started. This is a clear demonstration that, with the Northeast Interstate Dairy Compact, the dairy producers were provided a safety net—and when there has been a rise in the federal milk marketing prices for Class I fluid milk, the Compact has automatically shut itself off from the pricing process.

Mr. President, over ninety seven percent of the fluid milk market in New England is self contained within the area, and fluid milk markets are local due to the demand for freshness and because of high transportation costs, so any complaints raised in other areas about unfair competition are a bit disingenuous. In addition, the Compact requires the compact commission to take such action as necessary to ensure that a minimum price set by the commission for the region does not create an incentive for producers to generate additional supplies of milk. No other region should feel threatened by our Northeast Dairy Compact for fluid milk produced and sold mainly at home.

It should be noted that, in the farm bill conference in 1996, the U.S. Secretary of Agriculture was required to review the dairy compact legislation before implementation to determine if there was ''compelling public interest'' for the Compact within the Compact region. On August 9, 1996, and only after a public comment period, Secretary Glickman authorized the implementation of the Northeast Interstate Dairy Compact, finding that it was indeed in the compelling public interest to do so.

In addition, the Agriculture Appropriations Act for FY1998 directed the Office of Management and Budget (OMB) to study the economic effects of the Compact and especially its effects on the federal food and nutrition programs, such as the Womens, Infants and Children program. Key findings of the OMB study released in February of 1998, showed that, for the first six months of the Compact, New England retail milk prices were five cents per gallon lower than retail milk prices nationally. Also, the Compact did not add any costs to federal nutrition programs like the WIC program and the school breakfast and lunch programs. The GAO study also stated that the Compact economically benefitted the dairy producers, increasing their income from milk sales by about six percent, with no adverse affects to dairy farmers outside the Compact region.

Mr. President, the consumers in the Northeast Compact area, and now other areas around the country, are showing their willingness to pay more for their milk if the additional money is going directly to the dairy farmer. Environmental organizations have also supported dairy compacting as compacts help to preserve dwindling agricultural land and open spaces that help combat urban sprawl.

I ask for the support of my colleagues for the reauthorization of the Northeast Compact and the ratification of the Southern Compact.

Mr. SCHUMER. Mr. President, I am proud to join with 35 of my fellow Senators to introduce legislation to re-authorize the Northeast Dairy Compact and extend it to New York State. This legislation is vital to the Northeast Region and it will strengthen the economy of upstate New York.

The Compact may add a couple of cents to the consumer price of milk during months when the retail price of milk falls below a federally set minimum price, but it is a small price to pay to preserve the family dairy farm in rural New York.

The purpose of the Compact is to stabilize dairy prices and therefore enable small dairy farmers to budget their expenditures and plan for the future. The Northeastern Dairy Compact works by ensuring a minimum retail price for milk producers. The price paid to farmers for milk has fallen from $2.77 in 1960 to $1.36 in 1997. These low milk prices have forced many small farmers into insolvency over the years and have put the entire concept of family farms in peril.

The Northeast Dairy Compact will preserve the American tradition of local family farms in every region. I believe that this is a tiny price to pay to keep local farmers in business, and keep New York State's rural identity intact.

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. CAMPBELL, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Georgia (Mr. COVERDELL) were added as cosponsors of S. 38, a bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period.

S. 51

At the request of Mr. BIDEN, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 51, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 98

At the request of Mr. MCCAIN, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 98, a bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

S. 296

At the request of Mr. FRIST, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 296, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 333

At the request of Mr. LEAHY, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 333, a bill to amend the Federal Agriculture Improvement and Reform Act of 1996 to improve the farmland protection program.

S. 395

At the request of Mr. ROCKEFELLER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 395, a bill to ensure that the volume of steel imports does not exceed the average monthly volume of such imports during the 36-month period preceding July 1997.

S. 434

At the request of Mr. BREAUX, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits.

S. 459

At the request of Mr. BREAUX, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.