S. 3197. A bill to amend the Child Nutrition Act of 1966 to increase the minimum amount available to States for State administrative expenses; to the Committee on Agriculture, Nutrition, and Forestry.

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

S. 3198. A bill to provide a pool credit under Federal milk marketing orders for handlers of certified organic milk used for Class I purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THOMPSON:

S. 3199. A bill to amend section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide for a user fee to cover the cost of customs inspections at express courier facilities; to the Committee on Finance.

By Mr. KERREY (for himself, Mr. SANTORUM, Mr. MOYNIHAN, Mr. GRASSLEY, and Mr. BREAUX):

S. 3200. A bill to amend the Social Security Act to provide each American child with a KidSave Account, and for other purposes; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. COCHRAN, and Mr. MOYNIHAN):

S. 3201. A bill to rename the National Museum of American Art; considered and passed.

By Mr. BIDEN:

S. 3202. A bill to amend title 18, United States Code, with respect to biological weapons; to the Committee on the Judiciary.

By Mr. HATCH:

S. 3203. A bill to make certain corrections in copyright law; to the Committee on the Judiciary.

By Mr. HATCH:

S. 3204. A bill to make certain corrections in copyright law; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mrs. FEINSTEIN):

S. 3205. A bill to enhance the capability of the United States to deter, prevent, thwart, and respond to international acts of terrorism against United States nationals and interests; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DASCHLE (for himself, Mr. JOHNSON, Mr. BINGAMAN, Mr. LEVIN, Mr. CONRAD, and Mr. REID):

S. Res. 371. A resolution expressing the sense of the Senate that a commemorative postage stamp should be issued to honor sculptor Korczak Ziolkowski; to the Committee on Governmental Affairs.

By Mr. LOTT (for Mr. GRAMS (for himself and Mr. BROWNBACK)):

S. Res. 372. A resolution expressing the sense of the Senate with respect to United Nations General Assembly Resolution 1322; to the Committee on Foreign Relations.

By Mr. LUGAR (for himself, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. WARNER, Mr. MOYNIHAN, Mr. ROBB, Mr. COCHRAN, Mr. KERREY, and Mr. MILLER):

S. Res. 373. A resolution recognizing the 225th birthday of the United States Navy; to the Committee on Armed Services.

By Mrs. MURRAY (for herself and Mr. WARNER):

S. Res. 374. A resolution designating October 17, 2000, as a ''Day of National Concern About Young People and Gun Violence''; to the Committee on the Judiciary.

By Mr. LUGAR (for himself, Mr. DODD, Mr. HELMS, Mr. DEWINE, and Mr. GRAHAM):

S. Res. 375. A resolution supporting the efforts of Bolivia's democratically elected government; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. Res. 376. A resolution expressing the sense of the Senate that the men and women who fought the Jasper Fire in the Black Hills of South Dakota should be commended for their heroic efforts; considered and agreed to.

By Mr. BROWNBACK (for himself and Mr. TORRICELLI):

S. Con. Res. 150. A concurrent resolution relating to the reestablishment of representative government in Afghanistan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. AKAKA (for himself and Mr. LEVIN):

S. 3190. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protection, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

WHISTLEBLOWER PROTECTION ACT

Mr. AKAKA. Mr. President, as the ranking member of the Federal Services Subcommittee, I am pleased to introduce legislation to amend the Whistleblower Protection Act, WPA, one of the cornerstone of our nation's good government laws. Enacted in 1989, the WPA is intended to protect federal employees from workplace retaliation when disclosing waste, fraud, or abuse. The law was passed unanimously in 1989, and strengthened through amendments in 1994, again with unanimous support of both houses of Congress. I am joined today by Senator LEVIN, who was a primary sponsor of the landmark 1989 Act and the 1994 amendments.

A key goal of the Whistleblower Protection Act was to close the loopholes that had developed under prior law. Back in 1978, Congress passed the Civil Service Reform Act, which included statutory whistleblower rights that elevated certain disclosures to absolute protection due to their public policy significance. The 1978 Act protected ''a'' disclosure evidencing a reasonable belief of specified misconduct, with certain listed statutory exceptions—classified or other information whose release was specifically barred by other statutes. Despite statutory language, the Federal Court of Appeals, the Merit Systems Protection Board, and the Office of Special Counsel—all created in 1978 to investigate and adjudicate the WPA—appeared to interpret the law as discretionary rather than absolute.

This removed the law's foundation. Congress, in 1978, had intended to create absolute categories of protection to end the inherent chilling effect in constitutional balancing tests that required employees to guess whether they were covered by the First Amendment. Congress sought to eliminate the confusion by resolving the balance in favor of free speech rights for serious misconduct listed in the statute. Unfortunately, the Federal Circuit and administrative agencies did not respect this mandate and created loopholes based on factors irrelevant to the public, such as whether an employee had selfless motives or was the first to expose particular misconduct.

As a result, a cornerstone of the Whistleblower Protection Act was to close these loopholes that arose under prior law by amending protection of ''a'' disclosure to ''any'' disclosure which meets the law's standards. The purpose was to clearly prohibit any new exceptions to the law's coverage. Only Congress has that authority. Again, however, in both formal and informal interpretations of the Act, loopholes continued to proliferate.

Congress responded to this reluctance to abide by congressional intent through the passage of the 1994 amendments. The Governmental Affairs Committee report on the amendments rebutted prior interpretations by the Federal Circuit, the Merit Systems Protection Board, and the Office of Special Counsel that there were exceptions to ''any.'' The Committee report concluded, ''The plain language of the Whistleblower Protection Act extends to retaliation for 'any disclosure,' regardless of the setting of the disclosure, the form of the disclosure, or the person to whom the disclosure is made.''

I am pleased to note that since the enactment of the 1994 amendments, both the Office of the Special Counsel and the Merit Systems Protection Board generally have honored congressional boundaries. However, the Federal Circuit continues to disregard clear statutory language that the Act covers disclosures made to supervisors, to possible wrongdoers (Horton v. Dept. of Navy 66 F.3d 279, 1995), or as part of their job duties. (Willis v. Dept. of Agriculture, 141 F.3d 1139, 1998).

In order to protect the statute's cornerstone that ''any'' lawful disclosure evidencing significant abuse is covered by the Whistleblower Protection Act, our bill would codify the repeated and unconditional statements of congressional intent and legislative history. It would amend sections 2302(b)(8)(A) and 2302(b)(8)(B) of title 5, U.S.C. to protect any disclosure of information. This would be without restriction to time, place, form, motive or context, made to any audience unless specifically excluded in section 2302(b)(8) by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, which the employee or applicant reasonably believes evidences any violation of any law, rule, or regulation, or other misconduct specified in section 2302(b)(8). These include gross waste, gross mismanagement, abuse of authority, or a substantial and specific danger to public

health or safety. Consistent with current law, if the disclosure evidences a prohibited personnel practice against the employee making the disclosure, his or her remedy will continue to be available through section 2302(b)(9), rather than section 2302(b)(8).

The exceptions resulting from the Federal Circuit's rulings defeat the underlying good government goals of the Whistleblower Protection Act by removing protection where it counts the most: for federal employees, who acting as public servants, are carrying out their responsibilities to the public as employees of their agencies. By stripping protection from in-house disclosures, the Federal Circuit imposed loopholes that chill employees from working within their agencies to address potential waste, mismanagement, or abuse issues. If employees seek to solve problems within the chain of command, they could forfeit their rights to whistleblower protection from subsequent retaliation under the Court's rulings in Horton and Willis. To maintain protection against reprisal, federal employees must now bypass normal organizational activities responsible for implementing the law. Moreover, the loophole created by Willis removes protection when employees are performing their job duties. Because of the Court's rulings, the intent of the Act to create an environment where federal employees can safely serve the public on the job has been compromised.

Secondly, the legislation would institutionalize a principle currently expressed by a ban on spending on enforcement of any nondisclosure agreement that does not contain language specifically protecting an employee's rights under various open government statutes. This includes the Whistleblower Protection Act, the Military Whistleblower Protection Act, and the Lloyd Lafollette Act, which prohibits discrimination against government employees who communicate with Congress. This prohibition has been passed on an annual basis since 1988 as part of the yearly appropriations process. Our bill would make it a prohibited personnel practice to take a personnel action implementing or enforcing nondisclosure rules without specific notice of the listed statutes and their supremacy in the event of a conflict.

The appropriations provision, known as the ''anti-gag statute,'' has proved effective against attempts by agencies to override the Whistleblower Protection Act through prior restraint. The law originally passed as a spending control against abuses of national security secrecy, in which as a procedural prerequisite for security clearances, employees had to waive their constitutional and statutory free speech rights. Since its passage, however, it has been useful against gag orders in broad areas of specific and generic public concerns, including gag orders imposed as a precondition for employment and resolution of disputes, as well as general agency policies barring employees from communicating directly with Congress or the public. Prior restraint not only has a severe chilling effect, but strikes at the heart of this body's ability to perform its oversight duties by negating the repeatedly reaffirmed unequivocal congressional policy that whistleblowers have the right to make protected disclosures anonymously as a way to prevent retaliation.

Disclosing classified information is prohibited by law except to specific audiences listed in section 2302 and would not be a protected disclosure under this legislation. Nor would this legislation require the Merit System Protection Board to review security clearance determinations. The Supreme Court clearly spoke on this issue in Dept. of the Navy v. Egan, 484 U.S. 518 (1988), which found that denial of a security clearance is not . . . an ''adverse action.'' The Court upheld the Board's jurisdiction over due process procedures underlying a clearance decision. Egan stands as a bright line test, and if an employee requests review of the substantive judgments underlying a security clearance, OSC examiners, administrative judges, and members of the MSPB would be justified in denying jurisdiction. However, the Board could have jurisdiction if an employee complained that he or she suffered a prohibited personnel practice, because he or she was forced to sign an illegal nondisclosure agreement or its terms were enforced, regardless of context.

Congress repeatedly has reaffirmed its intent that employees should not be forced to sign agreements that supercede an employee's rights under good government statutes. Moreover, Congress has unanimously supported the concept that federal employees should not be subject to prior restraint from disclosing wrongdoing nor suffer retaliation for speaking out.

Lastly, the bill provides the Special Counsel with authority to appear and represent the interests of the Office of Special Counsel in civil actions brought in connection with the exercise of its authority to protect the merit system against prohibited personnel practices under section 2302(b)(8) and violations of the Hatch Act. It also gives the Special Counsel the right to seek review of decisions by the Merit Systems Protection Board before the Federal Circuit where the Special Counsel determines that the Board issued an erroneous decision in a whistleblower retaliation case or in a case arising under the Hatch Act, or that the Board's decision will have a substantial impact on the enforcement of those laws.

Under the bill, in Board cases in which the Special Counsel was not a party, the Special Counsel must first petition the Board for reconsideration of its decision before seeking review. The Court of Appeals shall grant petitions for review by the Special Counsel at its discretion.

This additional authority would enable the Office of Special Counsel to fulfill its statutory missions more effectively to protect federal whistleblowers against retaliation and to enforce the Hatch Act. While OSC, under current law, has a central role as public prosecutor in cases before the Merit Systems Protection Board, it in no way authorizes OSC to seek judicial review of an MSPB decision that the Special Counsel considers erroneous. Our legislation recognizes that providing the Special Counsel the authority to seek such review—in precedential cases—is crucial to ensuring the promotion of the public interests furthered by these statutes.

Moreover, under existing law, the Special Counsel cannot appear to represent himself or herself as a party, or even as an amicus curiae, where another party has invoked the jurisdiction of the Court of Appeals in a whistleblower retaliation or Hatch Act case. As a result, the Special Counsel, who Congress intended would be a vigorous, independent advocate for protection of the merit system, cannot participate at all in the arena in which the law is largely shaped: the Court of Appeals for the Federal Circuit. This bill reflects our conviction that the public interests underlying the whistleblower retaliation laws and the Hatch Act are best served by ensuring that the Special Counsel's views are considered by the Court in important cases.

Mr. President, there is significant history that defines congressional intent with respect to ensuring that federal whistleblowers are protected from retaliatory measures. It is my intention that this bill will begin the needed dialogue to guarantee that any disclosures within the boundaries of the statutory language are protected. As the ranking member of the Federal Services Subcommittee, I will seek hearings in the next Congress on the Whistleblower Protection Act and the amendments I am proposing today. It is my intention to request a hearing that would be independent of any reauthorization hearing held for the MSPB and the OSC, both of whose authority expires in 2002.

There is strong support for the legislation Senator LEVIN and I are introducing today. I ask unanimous consent, in addition to the text of the bill, that I be allowed to insert into the RECORD immediately following my statement, a petition signed by the heads of 72 organizations urging Congress to restore the Whistleblower Protection Act to its 1994 boundaries. Among the 70-plus groups that support this effort are the AFL-CIO, American Federation of Government Employees, Blacks in Government, National Association of Treasury Agents, National Treasury Employees Union, Common Cause, and the Federation of American Scientists. I also wish to extend my appreciation to the Special Counsel and the Acting Chair of the Merit Systems Protection Board for the technical assistance they provided. Lastly, I would

like to commend the Government Accountability Project for its dedication and perseverance over the years. Since 1977, GAP has sought to protect the public interest and promote government accountability by defending whistleblowers.

I urge my colleagues to join me in the effort to ensure that congressional intent embodied in the Whistleblower Protection Act is codified to ensure that the law is not weakened further.

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

S. 3190

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

SECTION 1. PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES.

(a) CLARIFICATION OF DISCLOSURES COVERED.—Section 2302(b)(8)(A) of title 5, United States Code, is amended—

(1) by striking ''by an employee or applicant'' and inserting '', without restriction to time, place, form, motive, or context, made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties,''; and

(2) in clause (i) by striking ''a violation'' and inserting ''any violation''.

(b) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

(1) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (x) by striking ''and'' after the semicolon; and

(B) by redesignating clause (xi) as clause (xii) and inserting after clause (x) the following:

''(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement; and''.

(2) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking ''or'' at the end;

(B) in paragraph (12), by striking the period and inserting ''; or''; and

(C) by inserting after paragraph (12) the following:

''(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement:

'' 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.' ''.

(c) AUTHORITY OF SPECIAL COUNSEL RELATING TO CIVIL ACTIONS.—

(1) REPRESENTATION OF SPECIAL COUNSEL.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

''(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Special Counsel and represent the Special Counsel in any civil action brought in connection with section 2302(b)(8) or subchapter III of chapter 73, or as otherwise authorized by law.''.

(2) JUDICIAL REVIEW OF MERIT SYSTEMS PROTECTION BOARD DECISIONS.—Section 7703 of title 5, United States Code, is amended by adding at the end the following:

''(e) The Special Counsel may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Special Counsel determines, in the discretion of the Special Counsel, that the Board erred in deciding a case arising under section 2302(b)(8) or subchapter III of chapter 73 and that the Board's decision will have a substantial impact on the enforcement of section 2302(b)(8) or subchapter III of chapter 73. If the Special Counsel was not a party or did not intervene in a matter before the Board, the Special Counsel may not petition for review of a Board decision under this section unless the Special Counsel first petitions the Board for reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceedings before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.''.

WHISTLEBLOWER PROTECTION ACT PETITION—SIGNERS AS OF OCTOBER 3, 2000

Whereas: The undersigned organizations believe that freedom of speech is the foundation of democracy, and agree with Congress' repeated judgment that it is sound public policy to prohibit reprisals against whistleblowers who challenge Executive branch misconduct through disclosures of illegality, mismanagement, abuse of authority, gross waste and substantial and specific danger to public health or safety; and

Whereas: The Whistleblower Protection Act (WPA) is the nation's premier good government statute to protect federal workers who risk retaliation by disclosing betrayals of the public trust; and

Whereas: There is an overwhelming legislative mandate for this law, which Congress passed unanimously in 1989 and unanimously strengthened in 1994; and

Whereas: The law needs to be further strengthened, rather than weakened. Government surveys have confirmed that some half million employees annually witness serious government misconduct but choose to do nothing; and

Whereas: The Federal Circuit Court of Appeals, which has a monopoly of judicial review for the Act, has functionally overturned the law since congressional approval of 1994 amendments strengthening it; and

Whereas: The Court has created a series of loopholes in the WPA removing the Act's coverage in the most common scenarios where it is needed:

when employees blow the whistle to coworkers, superiors or others in the chain of command, or to suspected wrongdoers;

when employees' disclosures challenge policies that are illegal or otherwise improper, or

when employees make disclosures in the course of doing their jobs.

These loopholes flatly contradict explicit 1989 statutory language, which protects disclosures in ''any'' context, and 1994 legislative history warning the Federal Circuit that ''any'' means ''any,'' without restrictions and defining it to ban exceptions for ''time, place, motive or context;'' and

Whereas: In 1999 the Court made it practically impossible or anyone to be recognized as deserving whistleblower protection regardless of circumstances. Under the Act passed by Congress, whistleblowers qualify for protection if they make disclosures that they ''reasonably believe evidences'' wrongdoing. However, without an explanation of the basis for overturning some twenty years of prior precedent, the Court ruled that an employee does not qualify for protection without ''irrefragable proof'' of the alleged wrongdoing. Webster's Dictionary defines ''irrefragable'' as ''incontrovertible, undeniable, incapable of being overthrown;'' and

Whereas: The practical impact of the decision is that if there are two sides to a story about alleged misconduct, it is not possible for a federal employee to be protected as a whistleblower. In light of this decision, no organization can responsibly advise whistleblowers that they have a realistic chance of defending themselves; and

Whereas: In the same 1999 decision, the Court ordered that every employee who exercise Whistleblower Protection Act rights must be investigated to determine whether the employee had a conflict of interest for raising the issue in the first place. As a result, the Act actually subjects whistleblowers to intimidation and harassment rather than protecting them from it. This violates Congress' 1994 ban on retaliatory investigations for engaging in protected activity such as exercising appeal rights; and

Whereas: There has never been any expression of legislative support either for the loopholes created by the Court or its requirement that whistleblowers prove their charges ''irrefragably.'' The court' extremist activism overturned the repeatedly stated unanimous intent. Restoring the congressional mandate does not require opening any new debates on previously resolved issues; and

Whereas: A cornerstone of any free speech law is prohibiting prior restraint, threats and pre-emptive strikes that silence employees through mandatory nondisclosure agreements and gag orders. For over 12 years Congress has passed an annual spending ban on enforcing such gag orders. The time has come to eliminate the uncertainty of annual renewal for this free speech cornerstone.

Therefore: We, the undersigned organizations, petition Congress to restore the Whistleblower Protection Act to its 1994 boundaries, prevent recurrence of judicial activism that neutralizes the value of this good government law and permanently pass the prohibition on gag orders. This can occur by codifying current appropriations language and prior WPA legislative history to cancel judicial decisions that unraveled the law, and by restoring normal judicial review in any U.S. Circuit Court of Appeals—the normal course under the Administrative Procedures Act and the structure approved by Congress when the Civil Service Reform Act of 1978 was passed.

James K. Wyerman, Executive Director, 20/20 Vision.

Laurence E. Gold, Associate General Counsel, AFL–CIO.

Joseph LeBeau, Director, Alaska Center for the Environment, Palmer, AK.

Ross Coen, Executive Director Alaska Forum on Environmental Responsibility, Fairbanks, AK.

Charles Hamel, on behalf of AlaskaGroupSix.org (the anonymous Trans-Alaska pipeline whistleblowers).

Cindy Shogun, Executive Director, Alaska Wilderness League.

Carol Bernstein, Ph.D., American Association of University Professors, Arizona Conference, Tucson, AZ.
Bobby Harnage, President, American Federation of Government Employees (AFGE).
Charles M. Loveless, Director of Legislation, American Federation of State, County & Municipal Employees (AFSCME).
Mary Ellen McNish, General Secretary, American Friends Service Committee, Philadelphia, PA.
Steve Holmer, Campaign Coordinator, American Lands Alliance.
D.W. Bennett, Executive Director, American Littoral Society, Broad Channel, NY.
J. Terrence Brunner, Executive Director, Better Government Association, Chicago, IL.
Gerald Reed, National President, Blacks In Government.
Michael Cavallo, President, Cavallo Foundation, Cambridge, MA.
Ron Daniels, Executive Director, Center for Constitutional Rights, New York, NY.
Joseph Mendelson, III, Legal Director, Center for Food Safety.
David Hunter, Executive Director, Center for International Environmental Law.
Robert E. White, President & William Goodfellow, Executive Director, Center for International Policy.
Craig Williams Director, Chemical Weapons Working Group and Common Ground, Berea, KY.
Gwen Lachelt, Executive Director, Citizens Oil and Gas Support Center, Durango, CO.
Phil Doe, Citizens Progressive Alliance, Denver, CO.
Anne Hemenway, Treasurer, Citizen's Vote, Inc.
Lynn Thorp, National Programs Coordinator, Clean Water Action.
Scott Harshbarger, President, Common Cause.
Joan Kiley, Executive Director, Community Recovery Services, Berkley, CA.
Joni Arends, Waste Programs Director, Concerned Citizens for Nuclear Safety, Santa Fe, NM.
Travis Plunkett, Legislative Director, Consumer Federation of America.
James Love, Director, Consumer Project on Technology.
Marc Rotenberg, Executive Director, Electronic Privacy Information Center.
Richard J. Baldes, Senior Biologist, Environmental Legacy, Washakie, WY.
John Richard, Executive Director, Essential Information.
Steve Aftergood, Project Director, Federation of American Scientists.
John C. Horning, Watershed Protection Program, Forest Guardians, Santa Fe, NM.
Andy Stahl, Executive Director, & Jeff DeBonis, Founder, Forest Service Employees for Environmental Ethics (FSEEE), Eugene, OR.
Courtney Cuff, Legislative Director, Friends of the Earth.
Conrad Martin, Executive Director, Fund for Constitutional Government.
Tom Devine, Legal Director, Government Accountability Project.
Bill Hedden, Utah Conservation Director, Grand Canyon Trust, Moab, UT.
Bill Sheehan, Network Coordinator, Grass-Roots Recycling Network, Athens, GA.
Gary Wolf, Co-Chair, Green Party of Tennessee.
James C. Turner, Executive Director, HALT: An Organization of Americans for Legal Reform.
Rebecca Clarren, Assistant Editor, High Country News, Paonia, Colorado.
Scott Armstrong, Executive Director, Information Trust.
Don Soeken, Ph.D., Director, Integrity International, Laurel, MD.
Peter Hille, Chairman, Kentucky Environmental Foundation, Berea, KY.
Steve D'Esposito, Executive Director, Mineral Policy Center.
Russell Hemenway, President, National Committee for an Effective Congress.
Brett Kay, Health Policy Associate, National Consumers League.
Patricia Ireland, President, National Organization for Women.
Colleen M. Kelley, National President, National Treasury Employees Union.
Stephen M. Kohn, Chairperson, Board of Directors, National Whistleblower Center.
Audrie Krause, Executive Director, NetAction.
Elizabeth Crowe, Director, Non-Stockpile Chemical Weapons, Citizens Coalition, Berea, KY.
Bill Smirnow, Director, Nuclear Free New York, Huntington, NY.
Michael Mariotte, Executive Director, Nuclear Information and Resource Service.
Fred Fellerman, Northwest Director, Ocean Advocates, Seattle, WA.
Gary Bass, Executive Director, OMB Watch.
Ken Rait, Conservation Director, Oregon Natural Resources Council, Portland, OR.
Danielle Brian, Executive Director, Project On Government Oversight.
Frank Clemente, Director, Public Citizen Congress Watch.
Wenonah Hauter, Executive Director, Public Citizen Critical Mass Energy and Environment Program.
Jeff DeBonis, Founder & Dan Meyer, General Counsel, Public Employees for Environmental Responsibility.
Lucy Dalglish, Executive Director, Reporters Committee for Freedom of the Press.
Tim Little, Executive Director, Rose Foundation for Communities and the Environment, Oakland, CA.
Scott Denman, Executive Director, Safe Energy Communication Council.
James W. Moorman, President, Taxpayers Against Fraud.
Jude Filler, Executive Director, Texas Alliance for Human Needs, Austin, TX.
Ann Hoffman, Legislative Director, Union of Needletrades, Industrial and Textile Employees (UNITE).
Marcia Hanscom, Executive Director, Wetlands Action Network, Malibu, CA.
Dan Heilig, Executive Director, Wyoming Outdoor Council, Lander, WY.

By Mr. TORRICELLI:

S. 3191. A bill to create a Federal drug court program, and for other purposes; to the Committee on the Judiciary.

FEDERAL DRUG COURTS FOUNDATION ACT OF 2000

Mr. TORRICELLI. Mr. President, I rise today to introduce the ''Federal Drug Courts Foundation Act of 2000.'' This legislation will usher in an new era in the struggle against drug-related crime by establishing a system of federal drug courts. These courts will help bring an end to the cycle of repeated and escalating crimes committed by small-time drug offenders. As General Barry McCaffrey has said: ''The establishment of drug courts . . . constitutes one of the most monumental changes in social justice in this country since World War II.''

Mr. President, I have long fought against the scourge of drug-related crime that has plagued this nation. The legislation I introduce today will continue that fight by creating a three-year pilot program establishing federal drug courts in ten cities selected by the Department of Justice.

Drug courts are a response to the fact that more than fifty percent of state parole violators were under the influence of drugs, alcohol, or both when they committed their new offense. They represent a creative new way to address this disturbing fact and are aimed at cleaning up first-time, small-time offenders through comprehensive supervision, drug testing and treatment.

Drug court programs have been successfully implemented at the state level. Since 1989, more than 100,000 drug offenders have participated in drug court programs at the state level and there are now more than 400 drug courts in existence. These drug courts have proven to be both effective and cost-efficient. A study in one New York drug court showed that only 11% of offenders were rearrested as compared to 27% in the general prison population. And while the incarceration of a drug offender costs between $20,000 and $50,000 annually, a drug court costs less than $2,500 per offender.

Drugs continue to be one of the greatest threats to our children and to the well-being of our communities. For this reason, we must continue to fight against the scourge of illegal drugs ravaging our communities. To that end, I am introducing the ''Federal Drug Courts Foundations Act of 2000,'' legislation designed to sensibly combat the epidemic of drug-related crime. I hope that this much-needed legislation will enjoy your support and I look forward to working with each and every one of you in order to get this legislation enacted into law.

I ask unanimous consent the text of the legislation be included in the RECORD.

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

S. 3191

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 ''Drug Court Act of 2000''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DRUG COURTS.—The term ''drug courts'' means a Federal district court of general jurisdiction in a high drug crime district, as defined by the Department of Justice, that will—

(A) expedite the criminal justice process for eligible offenders until such time as they are declared ineligible or selected for inclusion in a drug court program; and

(B) maintain jurisdiction over the offenders' cases before, during, and after participation in the program.

(2) DRUG COURT PROGRAM.—The term ''drug court program'' means a program for substance abuse treatment and rehabilitation for eligible offenders that—

(A) requires a successful plea agreement immediately following conviction or in lieu of incarceration; and

(B) is operated by a drug court in a State criminal justice system that has agreed to accept, for a fee per offender, all offenders selected for inclusion in such a program by a Federal drug court.

(3) ELIGIBLE OFFENDER.—The term ''eligible offender'' means a person who meets the requirements established in section 4 of this Act.

(4) OFFICE.—The term ''Office'' means the Office of Justice Programs of the Department of Justice.

SEC. 3. AUTHORIZATION OF DRUG COURTS.

(a) ESTABLISHMENT OF DRUG COURTS.—10 Federal district courts in the United States, as selected by the Office, are authorized to establish drug courts under this Act.

(b) DRUG COURT RESPONSIBILITIES.—Each Federal drug court shall enter into an agreement with a State drug court program that will allow all eligible offenders to participate in the drug court program of that State, in exchange for the payment of a fee equal to the amount of the cost of the program for that offender. Each such agreement shall be subject to the approval of the Office.

(c) OVERSIGHT.—Except as specified in this Act, rules governing drug courts will be promulgated separately by each participating Federal district court, with the advice of the Office, and subject to Department of Justice approval.

SEC. 4. ELIGIBLE OFFENDERS.

(a) IN GENERAL.—An ''eligible offender'' means a person who, by virtue of a Federal crime committed and other factors that the drug court may consider, may be considered for inclusion in the drug court program.

(b) PROGRAM PARTICIPANTS.—Drug court program eligibility under this Act shall not be available to any offender who—

(1) is accused of violent criminal offenses;

(2) is not accused of drug, drug-related, or drug-motivated offenses;

(3) has previously been convicted of a Federal or State violent felony offense; or

(4) for any other reason within the discretion of the court, does not meet all requirements of the applicable drug court.

(b) ADDITIONAL ELIGIBILITY REQUIREMENTS.—In addition to the criteria in subsection (a), no offender will be considered eligible for participation in a drug court program unless, following a reasonable investigation conducted according to standards set by the court, and one or more hearings before the court, consensus agreement is achieved among the prosecutor, the defense counsel, and the presiding judge, that the offender is a person who—

(1) currently suffers from a drug dependency;

(2) would benefit from the drug court program; and

(3) is appropriate for inclusion in the drug court program.

(c) INELIGIBLE OFFENDER HANDLING.—If at any point before admission into the drug court program, an offender is found ineligible for participation in a drug court program under this Act, the case of that offender shall be processed by the Federal district court under the applicable rules of procedure and sentencing.

(d) REQUIREMENTS FOR DRUG PROGRAM PARTICIPANTS.—Each eligible offender shall understand, sign, and acknowledge understanding of drug court documents, including—

(1) a waiver of the right of the offender to a speedy trial;

(2) a written plea agreement that sets forth the offense charged, the sanction to be imposed in the event of a breach of the agreement, and the penalty to be imposed, if any, in the event of a successful completion of the drug court program, except that incarceration may not be imposed upon successful completion of the program;

(3) a written treatment plan that is subject to modification at any time during the drug court program;

(4) a written performance contract requiring the offender to enter the drug court program as directed by the court and participate until completion, withdrawal, or removal by the court; and

(5) a limited applicability waiver of confidentiality for information relating to the treatment program of the offender, and progress in that program, limited only to agencies and parties participating in the drug court program, and agencies and parties participating in oversight of the case of the offender by the drug court.

SEC. 5. DRUG COURT OPERATIONS.

(a) IDENTIFICATION OF DRUG PROGRAM PARTICIPANTS.—The Office of the United States Attorney office in a Federal drug court, through the Office, shall establish procedures for the identification of eligible offenders not later than 30 days after the date of arrest of the alleged offender.

(b) PARTICIPANT FITNESS EXAMINATION.—A United States Attorney, defense counsel, and a treatment professional affiliated with the drug court program in which the offender would be placed, shall separately conduct investigations regarding the eligibility of an offender for inclusion in the drug court program. Upon a finding by any of the examining parties that the offender is ineligible to participate in the drug court program, the alleged offender shall be subject to prosecution under the applicable rules of procedure and sentencing.

(c) HEARING.—Upon agreement of the prosecutor, defense counsel, and treatment professional that an offender is eligible for the drug court program, the prosecutor, defense counsel, treatment professional, and offender shall appear for a hearing before a drug court judge, who shall receive testimony from each of the examining parties.

(d) JUDICIAL DISCRETION.—Upon a finding by the judge that the offender is eligible for inclusion in the drug court program, the judge shall obtain from the offender all appropriate drug court documents, and the offender shall immediately be removed to the custody of the drug treatment program. Should the offender not agree to any of the conditions of participation in the drug court program, the offender shall be subject to prosecution under the applicable rules of procedure and sentencing.

(e) DRUG COURT RESPONSIBILITIES.—The drug court shall—

(1) assign to the drug court program responsibility over all treatment, supervision, education, job skills training, and other ancillary services incidental to the program;

(2) hold regular hearings, attended by the judge, prosecutor, defense counsel, and treatment professional to assess the progress of the offender within the drug court program; and

(3) assess any and all disciplinary sanctions, penalties, and fines resulting from a violation by the offender of the drug court program plea agreement.

(f) DISCIPLINARY SANCTIONS.—The drug court shall establish methods for measuring application of disciplinary sanctions, which may include—

(1) short term confinement;

(2) reintroducing the offender into the drug court program after a disciplinary action for a minor violation of the treatment plan; and

(3) removal from the drug court program and reinstatement of the criminal case.

(g) DRUG COURT RECORDS.—All drug courts shall maintain records regarding rates of recidivism, relapses, restarts, sanctions imposed, and incentives given. All such data shall be collected and reported annually by the Office.

(h) ADMINISTRATIVE FEES.—For each offender admitted to the drug court program, the drug court shall pay to the drug court program an amount agreed upon at the outset of the relationship between the drug court and drug court program. This amount shall represent payment for the cost of treatment, supervision, rehabilitation, education, job skills training, and other ancillary services that the program of the offender shall require.

SEC. 6. DRUG COURT PROGRAM PARTICIPANT SUPPORT.

(a) IN GENERAL.—Each drug court program shall provide all participating offenders with a personalized program, including elements of treatment, supervision, rehabilitation, education, and job skills training, and other ancillary services that the program of the offender shall require.

(b) PARTICIPANT DEVELOPMENT.—Each drug court program shall ensure, at a minimum—

(1) strong linkage between all agencies participating in the drug court program, and the drug court judge, prosecutor, and defense counsel responsible for oversight of the case;

(2) access for all participating agencies to information on the progress of the offender within the program, notwithstanding normally confidential treatment and counseling information;

(3) vigilant supervision and monitoring procedures;

(4) random substance abuse testing not less frequently than weekly;

(5) provisions for noncompliance, modification of the treatment plan, and revocation proceedings;

(6) availability of residential treatment facilities and outpatient services; and

(7) methods for measuring performance-based effectiveness of the services of individual treatment providers.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Subject to an appropriations Act, there is authorized to be appropriated for each of fiscal years 2000 through 2004, the following amounts:

(1) $15,000,000, to the Office, to carry out a pilot program to establish a Federal drug court in each of 10 cities in the United States that are statistically considered high drug crime areas.

(2) $5,000,000 to the Department of Justice, for additional prosecutorial resources, including personnel, dedicated to drug enforcement in each of the 10 cities in which a Federal drug court is established under this Act.

By Mr. TORRICELLI:

S. 3192. A bill to provide grants to law enforcement agencies to purchase firearms needed to perform law enforcement duties; to the Committee on the Judiciary.

POLICE GUN BUYBACK ASSISTANCE ACT

Mr. TORRECELLI. Mr. President, I rise today to introduce a bill that will reduce the number of firearms on the street and help guns out of the hands of criminals. In the wake of the tragic shootings this year in Michigan and Pennsylvania, we are reminded of what happens when the wrong people have access to guns. These tragic shootings become even more troubling when they involve a former police gun or firearms previously involved in a crime.

It is vital that law enforcement agencies have the very best equipment available to ensure their safety and to protect America's communities, but purchasing new weapons can be expensive, particularly for cash-strapped municipalities. To deal with this problem, for almost two decades law enforcement agencies have been reselling their

old guns to dealers or auctioning them off to the public to offset the cost of purchasing new guns. However, this practice has led to an unintended result—increased risk that these guns would end up back on the streets and in the hands of criminals.

In the past nine years, firearms once used by law enforcement agencies have been involved in more than 3,000 crimes, including 293 homicides, 301 assaults and 279 drug-related crimes throughout the United States. Just last year, Bufford Furrow, a white supremacist, used a Glock pistol that was decommissioned and sold by a police agency in the State of Washington to terrorize and shoot children at a Jewish community center in Los Angeles and then kill a postal worker. Members of the Latin Kings, a violent Chicago street gang, used guns formerly owned by the Miami-Dade Police Department in Florida to commit violent crimes in Illinois. And a 1996 investigation by the New York State inspector general found that weapons used by New York law enforcement officers had been used in crimes in at least two other states.

In is time that we help our law enforcement agencies do what they have long tried to do—get out of the business of selling guns. Under the bill I introduce today, law enforcement agencies will no longer be forced to resell their old guns or guns seized from criminals to help them obtain the new weapons that are necessary to carry out their duties. Instead, this bill would provide grants to state or local law enforcement agencys to assist them in purchasing new firearms so that they will no longer be forced to sell their decommissioned firearms to anyone. In order to receive these grants, the law enforcement agencies must simply agree to either destroy their decommissioned guns or not sell them to the public.

A growing number of states and cities have already decided to ban the practice of pouring old police guns into the consumer market. They recognize that the extra money gained from selling old police guns is not worth the price of possible human suffering or loss of life. It is simply bad policy for governments to be suppliers of guns and potentially add to the problem of gun violence in America. Regardless of where one stands on gun control, logic, and common sense and decency demand that we also recognize this simple truth and unite behind moving this bill to passage.

I ask unanimous consent that a copy of the legislation appear in the RECORD.

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

S. 3192

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 ''Police Gun Buyback Assistance Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Buford Furrow, a white supremacist, used a Glock pistol decommissioned and sold by a law enforcement agency in the State of Washington, to shoot children at a Jewish community center in Los Angeles and kill a postal worker.

(2) Twelve firearms were recently stolen during shipment from the Miami-Dade Police Department to Chicago, Illinois. Four of these firearms have been traced to crimes in Chicago, Illinois, including a shooting near a playground.

(3) In the past 9 years, decommissioned firearms once used by law enforcement agencies have been involved in more than 3,000 crimes, including 293 homicides, 301 assaults, and 279 drug-related crimes.

(4) Many State and local law enforcement departments also engage in the practice of reselling firearms involved in the commission of a crime and confiscated. Often these firearms are assault weapons that were in circulation prior to the restrictions imposed by the Violent Crime Control and Law Enforcement Act of 1994.

(5) Law enforcement departments in the States of New York and Georgia, the City of Chicago, and other localities have adopted the practice of destroying decommissioned firearms.

(b) PURPOSE.—The purpose of this Act is to reduce the number of firearms on the streets by assisting State and local law enforcement agencies to eliminate the practice of transferring decommissioned firearms to any person.

SEC. 3. PROGRAM AUTHORIZED.

(a) GRANTS.—The Attorney General may make grants to States or units of local government—

(1) to assist States and units of local government in purchasing new firearms without transferring decommissioned firearms to any person; and

(2) to destroy decommissioned firearms.

(b) ELIGIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), to be eligible to receive a grant under this Act, a State or unit of local government shall certify that it has in effect a law or official policy that—

(A) eliminates the practice of transferring any decommissioned firearm to any person; and

(B) provides for the destruction of a decommissioned firearm.

(2) EXCEPTION.—A State or unit of local government may transfer a decommissioned firearm to another law enforcement agency.

(c) USE OF FUNDS.—A State or unit of local government that receives a grant under this Act shall use such grant only to purchase new firearms.

SEC. 4. APPLICATIONS.

(a) STATE APPLICATIONS.—To request a grant under this Act, the chief executive of a State shall submit an application, signed by the Attorney General of the State requesting the grant, to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) LOCAL APPLICATIONS.—To request a grant under this Act, the chief executive of a unit of local government shall submit an application, signed by the chief law enforcement officer in the unit of local government requesting the grant, to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

SEC. 5. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General shall promulgate regulations to implement this Act, which shall specify the information that must be included and the requirements that the States and units of local government must meet in submitting applications for grants under this Act.

SEC. 6. REPORTING.

A State or unit of local government shall report to the Attorney General not later than 2 years after funds are received under this Act, regarding the implementation of this Act. Such report shall include budget assurances that any future purchase of a firearm by the law enforcement agency will be possible without transferring a decommissioned firearm.

SEC. 7. DEFINITION.

For purposes of this Act—

(1) the term ''firearm'' has the same meaning given such term in section 921(a)(3) of title 18, United States Code;

(2) the term ''decommissioned firearm'' means a firearm—

(A) no longer in service or use by a law enforcement agency; or

(B) involved in the commission of a crime and confiscated and no longer needed for evidentiary purposes; and

(3) the term ''person'' has the same meaning given such term in section 1 of title 1 of the United States Code.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $10,000,000 for each of the fiscal years 2001 through 2005.

By Mr. MURKOWSKI:

S. 3193. A bill to amend section 527 of the Internal Revenue Code of 1986 to exempt State and local political committees from required notification of section 527 status; to the Committee on Finance.

FINANCE DISCLOSURE LEGISLATION

Mr. MURKOWSKI. Mr. President, in our desire to close the so-called 527 loophole involving campaign financing earlier this year, I believe we may have gone too far in the disclosure requirements.

In the bill ultimately creating P.L. 106–230, we essentially adopted the House language without any amendments. When it became law on July 1, 2000, one of the provisions required candidates for state and local offices to file Form 8871 by July 31, 2000.

The goal of the new law is to find out who is contributing to 527 political organizations that have proliferated in recent years. The organizations. including the Sierra Club's 527, were taking in large size donations and yet not have and to reveal who the donors were.

Under the new law, contributions in excess of $200 by a single person must be disclosed. Expenditures by a 527 organization in excess of $500 also would have to be disclosed. However, these financial disclosures—the heart and soul of the bill—do not apply to candidates for state and local elections. Clearly, the rules for state and local elections are to be regulated by the states, not the federal government.

Yet, under the new law, candidates for state and local offices must file Form 8871 with the IRS. This form essentially notifies IRS that state or local officeholder has established a 527

organization. It must also list the name and address of the organization, the purpose of the organization; the names and addresses of its officers and highly compensated persons and identify a contact person and custodian of records and its Board of Directors (if any).

Since we have exempted state and local candidates from having to file financial disclosure statements, I see no reason why they should be burdened with filing Form 8857. This requirement serves no purpose except to create needless paperwork for both the candidates and the IRS.

That is why I am introducing legislation to exempt state and local candidates from this burden just as the current law exempts 527 Organizations that do not expect that they will raise $25,000 do not have to file this information.

My bill is retroactive so that some candidates for local office who were caught unaware of the filing requirement do not face any penalties.

It is my hope that after this election, when campaign finance reform will be debated in a less political environment, that this common sense technical amendment will be included in reform legislation.

By Mr. AKAKA (for himself, Mr. MURKOWSKI, Mr. BINGAMAN, Mr. BAYH, Mr. REID, and Mr. INOUYE):

S. 3196. A bill to reauthorize and amend the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990, and for other purposes; to the Committee on Energy and Natural Resources

GEORGE E. BROWN, JR. HYRODGEN FUTURE ACT

Mr. AKAKA. Mr. President, I rise today with Senator MURKOWSKI and Senator BINGAMAN, Chairman and Ranking Member of Senate Committee on Energy and Natural Resources, my colleague on the Committee, Senator BAYH, my friend from Nevada, Senator REID, and my senior colleague from Hawaii, Senator INOUYE, to introduce legislation that will accelerate the ongoing efforts for the development of a fuel for the future—hydrogen. Hydrogen is an efficient and environmentally friendly energy carrier that can be obtained using conventional or renewable resources. There is strong evidence that hydrogen can be a solution for America's long-term energy needs.

All indications suggest that America's summer of discontent is going to continue and become the winter of discontent with respect to energy prices. Americans have paid record-breaking prices at the pump this summer. They will continue to suffer escalating prices this winter too. Higher energy prices hit most those Americans who can afford it the least.

Our Nation is heavily dependent on fossil fuels. We rely on imports to meet our needs. Our dependence on imported oil has been increasing for years. Oil imports have been rising for the past two decades. The combination of lower domestic production and increased demand has led to imports making up a larger share of total oil consumed in the United States. In 1992, crude oil imports accounted for approximately 45 percent of our domestic demand. Last year crude oil imports amounted for 58 percent. The Energy Information Administration's Short-Term Outlook forecasts that oil imports will exceed 60 percent of total demand this year. EIA's long-term forecasts have oil imports constituting 66 percent of U.S. supply by 2010, and more than 71 percent by 2000.

Continued reliance on such large quantities of imported oil will frustrate our efforts to develop a national energy policy and set the stage for energy emergencies in the future.

Mr. President, the way to improve our energy outlook is to adopt energy conservation, encourage energy efficiency, and support renewable energy programs. Above all, we must develop energy resources that diversify our energy mix and strengthen our energy security.

Now is the time to increase our efforts to develop new sources of energy. Growing evidence points to hydrogen as a fuel to resolve our energy problems and satisfy a wide variety of the world's energy needs.

Hydrogen as a fuel is not a new concept. For more than two decades there has been global interest in hydrogen as a renewable fuel. Progress is being made at an accelerating pace. Fuel cells for distributed stationary power are being commercialized and installed in various locations in the United States and worldwide. Transit bus demonstrations are underway in both the United States and Europe. Major automobile companies are poised to deploy fuel cell passengers cars within the next few years. All these activities involve government and private sector cooperation.

But many problems and challenges remain. Hydrogen production costs from both fossil and renewable energy sources remain high. Attractive low-cost storage technologies are not available. There is an inadequate infrastructure.

We need to address these challenges and barriers if we are to enjoy the fruits of an efficient and environmentally friendly energy source. This Senator believes that an aggressive research and development program can help us overcome many of these challenges such as bringing down the production costs from fossil and renewable sources, by advancing storage technologies, and addressing safety concerns with efforts in establishing codes and standards.

Our Nation needs an active and focused research, development, and demonstration program to make the breakthroughs necessary to make hydrogen a viable source of energy.

My predecessor, Senator Spark Matsunaga was one of the first to focus attention on hydrogen by sponsoring hydrogen research legislation. The Matsunaga Hydrogen Act, as this legislation has come to be known, was designed to accelerate development of domestic capability to produce an economically renewable energy source in sufficient quantities to reduce the Nation's dependence on conventional fuels. As a result of Senator Matsunaga's vision, the Department of Energy has been conducting research that will advance technologies for cost-effective production, storage, and utilization of hydrogen. The Hydrogen Future Act of 1996 expanded the research, and development, and demonstration program under the Matsunaga Act. It authorized activities leading to production, storage, transformation, and use of hydrogen for industrial, residential, transportation, and utility applications.

My good friend and former colleague in the House, Representative George E. Brown, Jr., was instrumental in the introduction and passage of the Hydrogen Future Act. Serving as the Chairman and Ranking Member of the House Science Committee, Congressman Brown earned a reputation as a true champion and advocate for science. He was an early supporter of hydrogen as a source of energy. He was the principal sponsor of the companion legislation to Senator Matsunaga's bill in the House. Congressman Brown passed away on July 15, 1999.

Mr. President, the legislation I am introducing today reauthorizes and amends the Hydrogen Future Act of 1996. I propose that Congress dedicate this legislation to George Brown's memory and cite the Act as George E. Brown, Jr. Hydrogen Future Act.

The legislation I am introducing today is consistent with the thinking of experts who have looked at this issue. The President's Committee of Advisors on Science and Technology (PCAST) issued a report titled ''Federal Energy Research and Development for the Challenges of the Twenty-First Century'' in response to a request from President Clinton to review the national energy R&D portfolio and make recommendations on how to ensure that the U.S. has a program that addresses its energy needs for the next century. In its report issued in November 1997, PCAST proposed a substantial increase in Federal spending for applied energy technology R&D, with the largest share going to energy efficiency and renewable energy technologies. This was a major change in focus. With this new R&D emphasis, the PCAST report acknowledges and supports advances in a wide range of both hydrogen-producing and hydrogen-using technologies. The bill I am introducing today supports the recommendations of PCAST.

The Hydrogen Technical Advisory Panel (HTAP) was established pursuant to the Spark Matsunaga Hydrogen Act. The panel's primary functions are to advise the Secretary of Energy on the

implementation and conduct of the Department of Energy's Hydrogen Program and to review and make recommendations on the economic, technical, and environmental consequences of deploying hydrogen energy systems. The Hydrogen Future Act gave additional functions to HTAP. The Act requires HTAP to evaluate the effectiveness of the Department's Hydrogen Program and make recommendations for improvements. HTAP is also required to make recommendations for future legislation.

The panel, appointed by the Secretary of Energy, has broad representation from industry, government, and academia. While some members of the panel represent the hydrogen community, others represent fossil energy, industrial gases, transportation, and environment groups—areas affected by the development and deployment of hydrogen energy systems. This mix provides the panel with a balanced perspective that allows diversity of viewpoints. Members serve on a pro-bono basis.

HTAP, in its report to Congress has strongly endorsed reauthorizing the Hydrogen Future Act. Today's bill reflects most of the recommendations of this expert body.

The long-term vision for hydrogen energy is that sometime well into 21st century, hydrogen will join electricity as one of our Nation's primary energy carriers, and hydrogen will ultimately be produced from renewable sources. But fossil fuels will be a significant long-term transitional resource. In the next twenty years, increasing concerns about global climate changes and energy security concerns will help bring about penetration of hydrogen in several niche markets. The growth of fuel cell technology will allow the introduction of hydrogen in both transportation and electricity sectors.

We are a long way from realizing this vision for hydrogen energy. But progress is being made and many challenges and barriers remain. Sustained effort is the only way to overcome these challenges and barriers. We need to support a strategy that focuses on mid-term and long-term goals. We must support development of technologies that enable distributed electric-generation fuel cell systems and hydrogen fuel cell vehicles for transportation applications. For the long-term, we should look to hydrogen technologies that enhance renewable systems and offer society the promise of clean, abundant fuels.

Significant forces are coming together that may accelerate wider acceptance of hydrogen as an energy source. Industry is moving ahead with fuel cell developments at a rapid pace. Many companies are forming partnerships to bring new technologies to the market place. Daimler-Chrysler, Ford, and Ballard have formed a partnership and pledged $1.5 billion for commercialization of automotive fuel cells. Edison Development Company, General Electric, SoCal Gas, and Plug Power have agreement to commercialize residential fuel cells. There are other companies pursuing the same market sector and are developing high performance fuel cell technology for automotive and electrical generation systems.

Initiatives for controls of emissions from automobiles such as California's zero emissions vehicle requirements favor early introduction of hydrogen powered vehicles. There is significant industry interest in bringing fuel cell technology to mining operations.

The Department of Energy administers the Hydrogen Program that supports a broad range of research and development projects in the areas of hydrogen production, storage, and use in a safer and less expensive manner in the near future. Progress in several research and development areas shows promise that some of these new technologies may become available for wider use in the next few years. Some of the promising technologies include advanced natural gas- and biomass-based hydrogen production technologies, high pressure gaseous and cryogas storage systems, reversible PEM fuel cell systems. Others lay the groundwork for long range opportunities.

The Hydrogen Program utilizes the talents of our national laboratories and our universities. National Renewable Energy Laboratory, Sandia, Lawrence Livermore, Los Alamos, and Oak Ridge, as well as Jet Propulsion Laboratory are involved in the program. DOE Field Office at Golden, Colorado, and Nevada Operations Office in Nevada are also involved. University-led centers-of-excellence have been established at Florida Solar Energy Center at University of Miami and University of Hawaii. The U.S. participation in the International Energy Agency contributes to the advancement of DOE hydrogen research through international cooperation.

The DOE Hydrogen Program is well managed and run by dedicated managers and capable and talented technologists. The program has also built strong links with the industry. This has resulted in strong industry participation and cost sharing. HTAP, in its review of the program reached similar conclusions.

The legislation I am introducing today reauthorizes the Hydrogen Future Act and adds provisions for the demonstration of hydrogen technologies at government facilities. It highlights the potential of hydrogen as an efficient and environmentally friendly source of energy, the need for a strong partnership between the Federal government, industry, and academia, and the importance of continued support for hydrogen research. It fosters collaboration between Federal agencies, state and local governments, universities, and industry. It encourages private sector investment and cost sharing in the development of hydrogen as an energy source.

The legislation authorizes $250 million over the next five years for research and development of technologies for hydrogen production, storage and use. This will allow advancement of technologies such as smaller-scale production systems that are applicable to distributed-generation and vehicle applications, advanced pressure vessels, photobiological and photocatalytic production of hydrogen, and carbon nanotubes, graphite nanofibers, and fullerenes.

It also authorizes $50 million for conducting integrated demonstrations of hydrogen technologies at government facilities. This will help secure industry participation through competitive solicitations for technology development and testing. It may encourage integration of renewable energy resources with hydrogen storage in distributed power scenarios. It will test the viability of hydrogen production, storage, and use. It will lead to development of hydrogen-based operating experience acceptable to meet safety codes and standards.

By supporting the development of hydrogen technologies, we will be ushering in an era of a non-polluting source of energy that will reduce our dependence on foreign oil. The price we will pay for development of this clean and renewable energy is minuscule compared to the benefits. And Mr. President, if we develop hydrogen technologies, we will be less likely to be held hostage by our friends in the Middle East.

Mr. President, I ask unanimous consent that a copy 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. 3196

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 ''George E. Brown, Jr. Hydrogen Future Act''.

SEC. 2. PURPOSES.

Section 102(b)(2) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401(b)(2)) is amended by striking ''among the Federal agencies and aerospace, transportation, energy, and other entities'' and inserting '', including education, among the Federal agencies and industry, transportation entities, energy entities, and other entities''.

SEC. 3. REPORT TO CONGRESS.

Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12402) is amended—

(1) in subsection (a), by striking ''1999,'' and inserting ''2003,'';

(2) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) an analysis of hydrogen-related activities throughout the United States Government to identify productive areas for increased intergovernmental collaboration; and''; and

(3) by adding at the end the following:

''(c) REQUIREMENTS.—The report under subsection (a) shall—

''(1) be based on a comprehensive coordination plan for hydrogen energy prepared by the Department with other Federal agencies; and

''(2) to the extent practicable, include State and local activities.''.

SEC. 4. TECHNOLOGY TRANSFER.

Section 106 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12405) is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) in paragraph (1), by striking ''an inventory'' and inserting ''an update of the inventory''; and

(ii) in paragraph (2), by inserting ''other Federal agencies as appropriate,'' before ''and industry''; and

(B) by striking the second and third sentences; and

(2) by adding at the end the following:

''(c) INFORMATION EXCHANGE PROGRAM ACTIVITIES.—The information exchange program under subsection (b)—

''(1) may consist of workshops, publications, conferences, and a database for the use by the public and private sectors; and

''(2) shall foster the exchange of generic, nonproprietary information and technology, developed under this Act, among industry, academia, and the Federal Government, to help the United States economy attain the economic benefits of the information and technology.''.

SEC. 5. TECHNICAL PANEL REVIEW.

Section 108(d) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12407(d)) is amended—

(1) in the matter preceding paragraph (1), by striking ''the following items'';

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

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

(4) by adding at the end the following:

''(3) the plan developed by the interagency task force under section 202(b) of the Hydrogen Future Act of 1996.''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 109 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12408) is amended—

(1) in paragraph (8), by striking ''and'';

(2) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(10) $40,000,000 for fiscal year 2002;

''(11) $45,000,000 for fiscal year 2003;

''(12) $50,000,000 for fiscal year 2004;

''(13) $55,000,000 for fiscal year 2005; and

''(14) $60,000,000 for fiscal year 2006.''.

SEC. 7. FUEL CELLS.

(a) INTEGRATION OF FUEL CELLS WITH HYDROGEN PRODUCTION SYSTEMS.—Section 201(a) of the Hydrogen Future Act of 1996 (42 U.S.C. 12403 note; Public Law 104–271) is amended—

(1) by striking ''(a) Not later than 180 days after the date of enactment of this section, and subject'' and inserting ''(a) IN GENERAL.—Subject''; and

(2) by striking ''with—'' and all that follows and inserting ''into Federal and State facilities for stationary and transportation applications.''.

(b) COOPERATIVE AND COST-SHARING AGREEMENTS; INTEGRATION OF TECHNICAL INFORMATION.—Title II of the Hydrogen Future Act of 1996 (42 U.S.C. 12403 note; Public Law 104–271) is amended—

(1) by redesignating section 202 as section 205; and

(2) by inserting after section 201 the following:

''SEC. 202. INTERAGENCY TASK FORCE.

''(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this section, the Secretary shall establish an interagency task force led by a Deputy Assistant Secretary of the Department of Energy and comprised of representatives of—

''(1) the Office of Science and Technology Policy;

''(2) the Department of Transportation;

''(3) the Department of Defense;

''(4) the Department of Commerce (including the National Institute for Standards and Technology);

''(5) the Environmental Protection Agency;

''(6) the National Aeronautics and Space Administration; and

''(7) other agencies as appropriate.

''(b) DUTIES.—

''(1) IN GENERAL.—The task force shall develop a plan for carrying out this title.

''(2) FOCUS OF PLAN.—The plan shall focus on development and demonstration of integrated systems and components for—

''(A) hydrogen production, storage, and use in Federal buildings;

''(B) power generation; and

''(C) transportation systems.

''(3) PROJECTS.—The plan may provide for projects to demonstrate the feasibility of—

''(A) hydrogen-based distributed power systems;

''(B) systems for hydrogen-based generation of combined heat, power, and other products; and

''(C) hydrogen-based infrastructure for transportation systems (including zero-emission vehicles).''.

''SEC. 203. COOPERATIVE AND COST-SHARING AGREEMENTS.

''The Secretary shall enter into cooperative and cost-sharing agreements with Federal and State agencies for participation by the agencies in demonstrations at sites administered by the agencies, with the aim of replacing commercially available systems based on fossil fuels with systems using fuel cells.

''SEC. 204. INTEGRATION OF TECHNICAL INFORMATION.

''The Secretary shall—

''(1) integrate all the technical information that becomes available as a result of development and demonstration projects under this title; and

''(2) make the information available to all Federal and State agencies.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 205 of the Hydrogen Future Act of 1996 (42 U.S.C. 12403 note; Public Law 104–271) (as redesignated by subsection (b)) is amended by striking ''this section, a total of $50,000,000 for fiscal years 1997 and 1998, to remain available until September 30, 1999'' and inserting ''this title $50,000,000 for fiscal years 2002, 2003, and 2004, to remain available until September 30, 2005''.

By Mr. KERREY (for himself, Mr. SANTORUM, Mr. MOYNIHAN, Mr. GRASSLEY, and Mr. BREAUX):

S. 3200. A bill to amend the Social Security Act to provide each American child with a KidSave Account, and for other purposes: to the Committee on Finance.

KIDSAVE ACCOUNTS

Mr. KERREY. Mr. President, many of the things we do in the Senate involve making investments in America's future. Investments in research through the National Science Foundation or investments in infrastructure development through the Department of Transportation reap great rewards for the citizens of tomorrow.

Today, I am pleased to be joined by Senators SANTORUM, MOYNIHAN, GRASSLEY, and BREAUX in introducing a piece of legislation that represents a remarkable new investment in the financial security of future generations of Americans.

This proposal, called KidSave, aims to give every American a stake in the growth of the American economy, to help all Americans accumulate wealth and assets, and to teach all Americans firsthand the value of savings and compounding interest. Not only will this legislation promote savings and investments across all income levels, but it will also help to close the growing wealth gap.

One of the discoveries I have made in researching this idea is that the most important variable in compounding interest rates is time. The earlier you start, the more wealth you build.

One of the poster children for understanding the value of compounding interest is Osceola McCarty. Osceola was a Hattiesburg, Mississippi, washerwoman, who after more than seven decades of low-wage work donated $150,000 to the University of Southern Mississippi—wealth she had built by saving a little bit of money over a long period of time.

Wealth has also empowered the Federal employees I talk to in the halls of the Senate, who are excited about their ability to participate in their government Thrift Savings Plan, TSP, and who talk more knowledgeably than me about index funds and the difference between a stock and bond. These employees, and other workers across the country who are able to participate in employer-sponsored pension plans and IRAs, feel more confident about their own futures and their own retirement security. They are confident that they won't face poverty in their final years.

Our KidSave proposal will gave that same sense of confidence and pride in one's future to all future generations of Americans.

How does KidSave work? The KidSave program would use part of the surplus to provide each newborn child with a $2,000 KidSave retirement savings loan to jumpstart his or her retirement savings. Each KidSave loan will be deposited into a qualified KidSave account. The KidSave program will be administered by the Thrift Savings Plan, TSP, Board. Future KidSave loans will be adjusted for inflation, CPI, beginning in 2008.

Parents and grandparents will be able to add $500 per year to each KidSave account for each child under the age of 19.

A KidSave loan recipient—with no additional account contributions—can expect to generate future retirement savings of $250,000 by the age of 67 (assuming an 8 percent rate of return). Furthermore, since KidSave accounts are personal property, they can be willed on to an heir as part of an estate.

How will these KidSave loans be financed? Our legislation uses Social Security surpluses to finance the loans in the early years of the program. But, as older KidSavers begin to repay their KidSave loans, the program will virtually become self-funded, as the loan repayment revenues are used to fund the KidSave loans of a new generation.

Since the $2,000 KidSave loan is—just that—a loan, KidSavers are expected to pay back the loan amount at the CPI inflated rate starting at age 30. The KidSave loan repayment mechanism is designed in such a way to allow future KidSavers to pay back 20 percent of the loan each year for five years, beginning at the age of 30. In the rare event that an individual's KidSave account may perform poorly, no individual will have to pay more than 20 percent of his total account value back in any given year.

Building upon existing investment structures in the Federal government, KidSave accounts will be managed and administered through the Federal employees' Thrift Savings Plan (TSP). Investment options will be determined by the TSP Board. KidSave account holders and guardians will have the same flexibility in changing their investment distributions as current TSP participants.

As I noted earlier in my remarks, one goal of this proposal is to close the growing wealth gap. Despite all of the glowing media reports about the booming American economy, most of the economic gains of the last decade have gone to families who have owned financial assets. Ed Wolff, the wealth data guru, has reported that the wealthiest 10 percent of households enjoyed 85 percent of the stock market gains between 1989 and 1998. Since 1989, the share of wealth held by the top 1 percent of households grew from 37 percent to 39 percent, while the net worth of the bottom 40 percent of households dropped from .9 percent to .2 percent.

An editorial by the Progressive Policy Institute has called this proposal a democratization of the ownership of financial assets''. I think they've hit the nail on the head. This proposal will create universal access to the tools of wealth creation and asset accumulation. It will make future workers less dependent on the Federal government for their retirement income security.

This proposal is also aimed at improving the personal savings rate in the United States. In fact, unlike other spending programs, KidSave loans will not only generate wealth, but also improve national and personal savings rates.

It has been widely reported that the personal savings rate has been in a long and steady decline in the U.S.—according to the Bureau of Economic Analysis, it has dropped from 11 percent in 1981 to 2 percent in 1999. Many workers are spending beyond their means, accumulating more and more consumer debt, while others simply can't afford to save because of high payroll tax rates and low wages. Many of these same workers are relying on Social Security to be their sole or primary source of income at retirement.

But the co-sponsors of this bill recognize that a Social Security retirement check isn't enough to live on. The average Social Security check in Nebraska is $766 a month. Nationwide, eighteen percent of beneficiaries have no other source of income. Another 12 percent rely on Social Security for more than 90 percent of their income, and nearly two-thirds overall derive more than half their income from that small check. For many of them, it's not enough. Our proposal is based on the idea that retirees need both income and wealth.

And Mr. President, that opportunity to hold assets and create wealth is an opportunity we can open today to every baby born in America. Guaranteed. I urge my colleagues to support this legislation.

By Mr. BIDEN:

S. 3202. A bill to amend title 18, United States Code, with respect to biological weapons; to the Committee on the Judiciary.

DANGEROUS BIOLOGICAL AGENT AND TOXIN CONTROL ACT OF 2000

Mr. BIDEN. Mr. President, today I am introducing the Dangerous Biological Agent and Toxin Control Act of 2000. Similar legislation was originally submitted by the Administration in 1999 as part of a larger anti-crime proposal.

Today a terrorist attack in the United States using chemical or biological weapons is one of the most significant terrorist threats we face. In recent years, through the ratification of the Chemical Weapons Convention and the enactment of the related implementing legislation, we have provided several statutory safeguards designed to prevent and deter against an attack using chemical weapons. But gaps remain in our laws regulating biological pathogens. It is essential not only that America be fully prepared to respond to such an attack, but also that we take steps to prevent them from happening in the first place.

Currently, federal law bans only the development and possession of biological agents for use as a weapon. But there are sensible things that we can do in the near term to give federal law enforcement the tools that they need to protect our country from these threats—before they materialize into unspeakable scenarios.

Earlier this year, the National Commission on Terrorism reported to Congress. Among its conclusions was that the federal laws regarding the possession of dangerous pathogens are currently insufficient. The Commission specifically recommended, among other things, that Congress make it illegal for anyone not properly certified to possess certain critical pathogens. And they were right.

The bill I introduce today fill several gaps in the law.

First, the bill will make it unlawful for anyone to possess biological agent, toxin or delivery system of a type or in a quantity that under the circumstances is not reasonably justified by a prophylactic, protective or other peaceful purpose. Second, the bill makes it unlawful to handle a biological agent with conscious disregard of an unreasonable risk to public health and safety. Third, the legislation makes it unlawful to knowingly communicate false, but believable information, concerning an activity which would constitute a violation of this statute. Finally, the bill requires people to report to the federal government their possession of listed biological agents, prohibits the transfer of a listed biological agent to a person who is not registered and makes possession by certain restricted persons—such as convicted felons—unlawful.

Closing these gaps in the law would be a modest but important step to prevent and deter a terrorist act involving biological agents. This should not be a partisan issue. This is an issue of governance, not politics. From Wilmington to Washington State, our constituents need protection and expect and deserve nothing less.

Mr. President, I recognize that the Congressional session is about to end, and therefore it is too late for the bill to be considered this year. But I wanted to introduce the bill now so that it would be available for review by my colleagues and other interested parties inside and outside of government. In particular, I invite comment by interested parties in the scientific community, the business community, and the civil liberties community. I regard the bill I introduce today as an initial draft that is a work in progress, and I welcome constructive comments and suggestions for improvement. I look forward to working with my colleagues on the Committee on the Judiciary early in the next session of Congress.

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. 3202

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 ''Dangerous Biological Agent and Toxin Control Act of 2000''.

SEC. 2. EXPANSION OF THE BIOLOGICAL WEAPONS STATUTE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) certain biological agents and toxins have the potential to pose a severe threat to the Nation's public health and safety, and thereby affect interstate and foreign commerce;

(B) the Secretary of Health and Human Services has published a list of biological agents and toxins that pose a severe threat to the Nation's public health and safety as an appendix to part 72 of title 42, Code of Federal Regulations;

(C) biological agents and toxins can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(D) terrorists and other criminals can also harm national security, drain the limited resources of all levels of government devoted to thwarting biological weapons, and damage interstate and foreign commerce by threatening to use, and by falsely reporting efforts to use, biological agents and toxins as weapons;

(E) the Biological Weapons Convention obligates the United States to take necessary measures within the United States to prohibit and prevent the development, production, stockpiling, acquisition, or retention of biological agents and toxins of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes;

(F) the mere possession of biological agents and toxins is a potential danger that affects the obligations of the United States under the Biological Weapons Convention and affects interstate and foreign commerce; and

(G) persons in possession of harmful biological agents and toxins should handle them in a safe manner and, in the case of agents and toxins listed by the Department of Health and Human Services as posing a severe threat to the Nation's public health and safety, report their possession and the purpose for their possession to the appropriate Federal agency in order to ensure that such possession is for peaceful scientific research or development.

(2) PURPOSES.—The purposes of this section are to—

(A) strengthen the implementation by the United States of the Biological Weapons Convention and to ensure that biological agents and toxins are possessed for only prophylactic, protective, or other peaceful purposes;

(B) establish penalties for the false reporting of violations of chapter 10 of title 18, United States Code (relating to biological weapons); and

(C) improve the statutory definitions relating to biological weapons.

(b) ADDITIONAL MEASURES.—

(1) IN GENERAL.—Section 175 of title 18, United States Code, is amended by adding at the end the following:

''(c) ADDITIONAL PROHIBITIONS RELATING TO BIOLOGICAL AGENTS, TOXINS, AND DELIVERY SYSTEMS.—

''(1) UNLAWFUL POSSESSION.—Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both. Knowledge of whether the type or quantity of any biological agent, toxin, or delivery system is reasonably justified by a prophylactic, protective, or other peaceful purpose is not an element of the offense. For purposes of this paragraph, the terms 'biological agent' and 'toxin' do not encompass any biological agent or toxin that is in its naturally occurring environment, if such agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

''(2) UNSAFE HANDLING.—

''(A) IN GENERAL.—Whoever, with conscious disregard of an unreasonable risk to public health and safety, handles an item knowing it to be a biological agent, toxin, or delivery system in a manner that grossly deviates from accepted norms, shall be fined under this title, imprisoned not more than 1 year, or both.

''(B) AGGRAVATED OFFENSE.—Whoever in the course of a violation of subparagraph (A) causes bodily injury (as defined in section 1365(g)(4) of this title) to any individual (other than the perpetrator)—

''(i) shall be fined under this title, imprisoned not more than 10 years, or both; and

''(ii) if death results from the offense, shall be fined under this title, imprisoned for any term of years or for life, or both fined and imprisoned.

''(d) FALSE INFORMATION.—

''(1) CRIMINAL VIOLATION.—Whoever communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning the existence of activity that would constitute a violation of subsection (a) or (c) shall be fined under this title, imprisoned not more than 5 years, or both.

''(2) CIVIL PENALTY.—Whoever communicates information, knowing the information to be false, concerning the existence of activity that would constitute a violation of subsection (a) or (c) is liable to the United States or any State for a civil penalty of the greater of $10,000 or the amount of money expended by the United States or the State in responding to the false information.

''(e) REPORTING, TRANSFER, AND POSSESSION OF SELECT AGENTS.—

''(1) OBLIGATION TO REPORT.—Any person who possesses a select agent shall report such possession to the designated agency, in the manner prescribed by the designated agency, within 72 hours of the effective date of the regulation issued by that agency pursuant to this paragraph or within 72 hours of subsequently obtaining possession of the agent or toxin, except that, if such person is a registered entity, the reporting, if any, shall be in the manner as otherwise directed by regulation by the designated agency. If a person complies with this paragraph, there is no obligation for any employee of such person to file a separate report concerning the employee's possession of a select agent in the workplace of such person.

''(2) CRIMINAL PENALTY FOR WILLFUL FAILURE TO REPORT.—Any person who willfully fails to make the report required by paragraph (1) within the prescribed period shall be fined under this title, imprisoned not more than 3 years, or both. In this paragraph, the term 'willfully' means an intentional violation of a known duty to report.

''(3) CIVIL PENALTY FOR FAILURE TO REPORT.—Any person who fails to make the report required by paragraph (1) within the prescribed period is liable to the United States for a civil penalty of $5,000.

''(4) PENALTY FOR POSSESSION OF UNREPORTED SELECT AGENTS.—Any person who knowingly possesses a biological agent or toxin that is a select agent for which a report required by paragraph (1) has not been made shall be fined under this title, imprisoned not more than 1 year, or both.

''(5) UNAUTHORIZED TRANSFER OF SELECT AGENTS.—Whoever knowingly transfers a select agent to any person who is not a registered entity shall be fined under this title, imprisoned not more than 5 years, or both. For purposes of this paragraph, the term 'transfers' does not encompass the transfer of a select agent within the workplace between employees of the same registered entity, or between employees of any person who has filed the report required by paragraph (1), if the transfer is authorized by such entity or person.

''(6) POSSESSION OF SELECT AGENTS BY RESTRICTED INDIVIDUALS.—

''(A) PROHIBITION ON POSSESSION.—Except as otherwise provided in this section or in section 2(b)(3)(G) of the Dangerous Biological Agent and Toxin Control Act of 2000, no restricted individual shall knowingly possess or attempt to possess any biological agent or toxin if that biological agent or toxin is a select agent.

''(B) PENALTY.—Any individual who violates subparagraph (A) shall be fined under this title, imprisoned not more than 5 years, or both.

''(C) EMPLOYERS OF INDIVIDUALS WHO POSSESS SELECT AGENTS.—Employers of individuals who will possess select agents in the course of their employment shall require such individuals, prior to being given access to select agents, to complete a form in which the individual affirms or denies the existence of each of the restrictions set forth in section 178(8) of this title. In the case of individuals already employed as of the date of enactment of this subsection who possess select agents in the course of their employment, employers shall, not later than 90 days after the date of enactment of this subsection, require those individuals to complete such a form. Such form shall be retained by the employer for not less than 5 years after the individual terminates his employment with that employer.

''(D) EMPLOYEES.—

''(i) Whoever willfully and knowingly falsifies or conceals a material fact or makes any materially false, fictitious, or fraudulent statement or representation in completing the form required under subparagraph (C) shall be fined under this title, imprisoned not more than 5 years, or both.

''(ii) The prohibition of subparagraph (A) does not apply to possession by a restricted individual of a select agent in the workplace of his employer if the basis for the prohibition relates solely to subparagraph (A) or (B)(i) of section 178(8) of this title and a determination is made to waive the prohibition in accordance with the rules and procedures established pursuant to subsection (f).

''(iii) The prohibition of subparagraph (A) does not apply to possession by a restricted individual of a select agent in the workplace of his employer if the basis for the prohibition relates solely to subparagraph (B)(ii) or (G) of section 178(8) of this title and is more than 5 years old (not counting time served while in custody), and a determination is made to waive the prohibition in accordance with the rules and procedures established pursuant to subsection (f).

''(iv) For the purposes of this subparagraph, the term 'employer' means any person who is a registered entity or has filed the report required by section 175(e)(1) of this title and employs a restricted individual.

''(E) CERTAIN NONPERMANENT RESIDENT ALIENS.—The prohibition of subparagraph (A) does not apply to possession by a restricted individual of a select agent if the basis for the prohibition relates solely to subparagraph (F) of section 178(8) of this title, and the restricted individual has received a waiver from the agency designated to carry out the functions of this subparagraph. The designated agency may issue a waiver if it determines, in consultation with the Attorney General, that a waiver is in the public interest.

''(f) WAIVERS OF RESTRICTIONS ON POSSESSION OF SELECT AGENTS IN COURSE OF EMPLOYMENT.—The agency designated to carry out this subsection, after consultation with appropriate agencies, with representatives of the scientific and medical community, and with other appropriate public and private entities and organizations (including consultation concerning employment practices in working with select agents), shall establish the rules and procedures governing waivers of the provisions of subsection (e)(6)(A) with

respect to possession of select agents by restricted individuals in the course of employment. Such rules and procedures shall address, among other matters as found appropriate by the designated agency, whether (or the circumstances under or the extent to which) the determination to grant a waiver shall be reserved to the Government, or may be made by the employer (either with or without consultation with the Government).

''(g) REIMBURSEMENT OF COSTS.—

''(1) CONVICTED DEFENDANT.—

''(A) SUBSECTION (a), (c), or (e).—The court shall order any person convicted of an offense under subsection (a), (c), or (e) to reimburse the United States or any State for any expenses incurred by the United States or the State incident to the seizure, storage, handling, transportation, and destruction or other disposal of any property that was seized in connection with an investigation of the commission of such offense by that person.

''(B) SUBSECTION (d)(1).—The court shall order any person convicted of an offense under subsection (d)(1) to reimburse the United States for any expenses incurred by the United States incident to the investigation of the commission by that person of such offense, including the cost of any response made by any Federal military or civilian agency to protect public health or safety.

''(2) OWNER LIABILITY.—The owner or possessor of any property seized and forfeited under this chapter shall be liable to the United States for any expenses incurred incident to the seizure and forfeiture, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized and forfeited property.

''(3) JOINTLY AND SEVERALLY LIABLE.—A person ordered to reimburse the United States for expenses under this chapter shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.''.

(2) TECHNICAL CLARIFICATIONS.—

(A) SECTION 175.—Section 175(a) of title 18, United States Code, is amended by striking ''section'' and inserting ''subsection''.

(B) SECTION 176.—Section 176(a)(1)(A) of title 18, United States Code, is amended by striking ''exists by reason of'' and inserting ''pertains to''.

(3) DESIGNATION OF RESPONSIBLE AGENCIES.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the President shall designate—

(i) the agency responsible for prescribing the regulation required by section 175(e)(1) of title 18, United States Code;

(ii) the agency responsible for granting the waivers under section 175(e)(6)(E) of title 18, United States Code; and

(iii) the agency responsible for implementing the waiver provisions of section 175(f) of title 18, United States Code.

(B) REGULATIONS.—The agencies designated pursuant to subparagraph (A)—

(i) shall issue proposed rules not later than 90 days after the date of the President's designation; and

(ii) shall issue final rules not later than 270 days after the date of enactment of this Act.

(C) INSPECTIONS.—The agency designated pursuant to subparagraph (A)(i) may inspect the facilities of any person who files a report required by section 175(e)(1) of title 18, United States Code, to determine whether the person is handling the select agent in a safe manner, whether he is holding such agent for a prophylactic, protective, or other peaceful purpose, and whether the type and quantity being held are reasonable for that purpose. Any agency designated pursuant to subparagraph (A) may inspect any form required by section 175(e)(6)(C) of title 18, United States Code, and any documentation relating to a determination made pursuant to section 175(e)(6)(D) of that title. The designated agency shall endeavor to not interfere with the normal business operations of any such facility.

(D) FREEDOM OF INFORMATION ACT EXEMPTION.—Any information provided to the Secretary of Health and Human Services pursuant to regulations issued under section 511(f) of the Antiterrorism and Effective Death Penalty Act of 1996 (42 C.F.R. 72.6) or to the designated agency under section 175(e)(1) of title 18, United States Code, shall not be disclosed under section 552 of title 5, United States Code. The Secretary or the designated agency may use and disclose such information to protect the public health, and shall also disclose any such relevant information to the Attorney General for use in any investigation or other proceeding to enforce any law relating to select agents or any other law. Any such information shall be made available to any committee or subcommittee of Congress with appropriate jurisdiction upon the written request of the Chairman or Ranking Member of such committee or subcommittee, except that no such committee or subcommittee, and no member and no staff member of such committee or subcommittee, shall disclose such information except as otherwise required or authorized by law.

(E) CLARIFICATION OF THE SCOPE OF THE SELECT AGENT RULE.—Section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1284) is amended—

(i) in each of subsections (a), (d), and (e)—

(I) by inserting ''and toxins'' after ''agents'' each place it appears; and

(II) by inserting ''or toxin'' after ''agent'' each place it appears; and

(ii) in subsection (g)(1), by striking ''the term 'biological agent' has'' and inserting ''the terms 'biological agent' and 'toxin' have''.

(F) EFFECTIVE DATES.—

(i) Subparagraph (D) shall take effect on the effective date for the final rule issued pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1284).

(ii) The amendments made by subparagraph (E) shall take effect as if included in the enactment of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1284).

(G) TRANSITIONAL EXEMPTIONS.—

(i) The prohibition created by section 175(e)(6)(A) of title 18, United States Code, shall not apply to the possession of a select agent in the workplace of an employer (as defined in section 175(e)(6)(D)(iv) of title 18, United States Code) by a restricted individual (as defined in subparagraph (A), (B), or (G) of section 178(8) of title 18, United States Code), until the effective date of the regulations issued to implement section 175(f) of title 18, United States Code, or 270 days after the date of enactment of this Act, whichever occurs earlier.

(ii) The prohibition created by section 175(e)(6)(A) of title 18, United States Code, shall not apply to the possession of a select agent by a restricted individual (as defined in section 178(8)(F) of title 18, United States Code), until the effective date of the regulations issued to implement section 175(e)(6)(E) of title 18, United States Code, or 270 days after the enactment of this Act, whichever occurs earlier.

(c) DEFINITIONAL AMENDMENTS.—

(1) SECTION 178.—Section 178 of title 18, United States Code, is amended—

(A) in paragraph (1), by striking ''means any microorganism, virus, or infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product'' and inserting the following: ''means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance'';

(B) in paragraph (2), by striking ''means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including'' and inserting the following: ''means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes'';

(C) in paragraph (4)—

(i) by striking ''recombinant molecule, or biological product that may be engineered as a result of biotechnology'' and inserting ''recombinant or synthesized molecule''; and

(ii) by striking ''and'' at the end;

(D) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

''(6) the term 'select agent' means a biological agent or toxin that is on the list established by the Secretary of Health and Human Services pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1284) that is not exempted under part 72.6(h) of title 42, Code of Federal Regulations or appendix A to such part (or any successor to either such provision), except that the term does not include any such biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source;

''(7) the term 'registered entity' means a registered facility, or a certified laboratory exempted from registration, pursuant to the regulations promulgated by the Secretary of Health and Human Services under section 511(f) of the Antiterrorism and Effective Death Penalty Act of 1996 (42 C.F.R. 72.6(a), 72.6(h));

''(8) the term 'restricted individual' means an individual who—

''(A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

''(B) has been convicted in any court of a crime—

''(i) punishable by imprisonment for a term exceeding 1 year but not more than 5 years; or

''(ii) punishable by imprisonment for a term exceeding 5 years;

''(C) is a fugitive from justice;

''(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

''(E) is an alien illegally or unlawfully in the United States;

''(F) is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) (or its successor law), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of the

Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination, which remains in effect, that such country has repeatedly provided support for acts of international terrorism; or

''(G) has been discharged from the Armed Forces of the United States under dishonorable conditions;

''(9) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3));

''(10) the term 'lawfully admitted for permanent residence' has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

''(11) the term 'designated agency' means—

''(A) except as provided in subparagraphs (B) and (C) of this paragraph, the agency designated by the President under section 2(b)(3)(A)(i) of the Dangerous Biological Agent and Toxin Control Act of 2000'';

''(B) for purposes of section 175(e)(6)(E) of this title, the agency designated by the President under section 2(b)(3)(A)(ii) of the Dangerous Biological Agent and Toxin Control Act of 2000; and

''(C) for purposes of section 175(f) of this title, the agency designated by the President under section 2(b)(3)(A)(iii) of the Dangerous Biological Agent and Toxin Control Act of 2000; and

''(12) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States, including any political subdivision thereof.''.

(2) SECTION 2332A.—Section 2332a of title 18, United States Code, is amended—

(A) in subsection (a), by striking '', including any biological agent, toxin, or vector (as those terms are defined in section 178)''; and

(B) in subsection (c)(2)(C), by striking ''a disease organism'' and inserting ''any biological agent, toxin, or vector (as those terms are defined in section 178 of this title)''.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. MILLER, his name was added as a cosponsor of S. 4, a bill to improve pay and retirement equity for members of the Armed Forces, and for other purposes.

S. 5

At the request of Mr. MILLER, his name was added as a cosponsor of S. 5, a bill to reduce the transportation and distribution of illegal drugs and to strengthen domestic demand reduction, and for other purposes.

S. 12

At the request of Mr. MILLER, his name was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals.

S. 14

At the request of Mr. MILLER, his name was added as a cosponsor of S. 14, a bill to amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes.

S. 25

At the request of Mr. MILLER, his name was added as a cosponsor of S. 25, a bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes.

S. 227

At the request of Mr. MILLER, his name was added as a cosponsor of S. 227, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 922

At the request of Mr. ABRAHAM, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Vermont (Mr. LEAHY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Virginia (Mr. ROBB), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 922, a bill to prohibit the use of the ''Made in the USA'' label on products of the Commonwealth of the Northern Mariana Islands and to deny such products duty-free and quota-free treatment.

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 1020, supra.

S. 1163

At the request of Mr. BENNETT, the names of the Senator from Florida (Mr. GRAHAM) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1163, a bill to amend the Public Health Service Act to provide for research and services with respect to lupus.

S. 1364

At the request of Mr. MILLER, his name was added as a cosponsor of S. 1364, a bill to amend title IV of the Social Security Act to increase public awareness regarding the benefits of lasting and stable marriages and community involvement in the promotion of marriage and fatherhood issues, to provide greater flexibility in the Welfare-to-Work grant program for long-term welfare recipients and low income custodial and noncustodial parents, and for other purposes.

S. 1536

At the request of Mr. DEWINE, the names of the Senator from Oregon (Mr. SMITH), the Senator from North Dakota (Mr. DORGAN), the Senator from Texas (Mrs. HUTCHISON), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1536, a bill to amend the Older Americans Act of 1965 to extend authorizations of appropriations for programs under the Act, to modernize programs and services for older individuals, and for other purposes.

S. 1593

At the request of Mr. MILLER, his name was added as a cosponsor of S. 1593, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 1721

At the request of Mr. MILLER, his name was added as a cosponsor of S. 1721, a bill to provide protection for teachers, and for other purposes.

S. 1874

At the request of Mr. GRAHAM, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 1874, a bill to improve academic and social outcomes for youth and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities conducted by law enforcement personnel during non-school hours.

S. 2337

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2337, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. 2698

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2698, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 2725

At the request of Mr. SMITH of New Hampshire, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2725, a bill to provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes.

S. 2787

At the request of Mr. BIDEN, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 2787, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 2829

At the request of Mr. HUTCHINSON, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2829, a bill to provide for an investigation and audit at the Department of Education.