other incentives to maintain a vibrant travel and tourism industry, to keep working people working, and to stimulate economic growth, and for other purposes.

S. 1556

At the request of Mr. DOMENICI, his name was added as a cosponsor of S. 1556, a bill to establish a program to name national and community service projects in honor of victims killed as a result of the terrorist attacks on September 11, 2001.

S. 1566

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 1566, a bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 1655

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1745

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1749

At the request of Mr. KYL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 1749, supra.

S. 1766

At the request of Mr. BINGAMAN, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from North Dakota (Mr. DORGAN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1766, a bill to provide for the energy security of the Nation, and for other purposes.

S. 1767

At the request of Mr. KENNEDY, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 1767, a bill to amend title 38, United States Code, to provide that certain service in the American Field Service ambulance corps shall be considered active duty for the purposes of all laws administered by the Secretary of Veteran's Affairs, and for other purposes.

S. 1786

At the request of Mr. DURBIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Hawaii (Mr. INOUYE), the Senator from Missouri (Mrs. CARNAHAN), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1786, a bill to expand aviation capacity in the Chicago area.

S. 1819

At the request of Mr. BIDEN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1819, a bill to provide that members of the Armed Forces performing services in the Republic of Korea shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes.

S. 1858

At the request of Mr. ALLEN, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Virginia (Mr. WARNER), and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1858, a bill to permit the closed circuit televising of the criminal trial of Zacarias Moussaoui for the victims of September 11th.

S. 1859

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1859, a bill to extend the deadline for granting posthumous citizenship to individuals who die while on active-duty service in the Armed Forces.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from Nebraska (Mr. HAGEL) was added as cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the USS *Wisconsin* and all those who served aboard her.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 1861. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Russia; to the Committee on Finance.

Mr. LUGAR. Mr. President, at the request of the Administration, I rise today to offer legislation to repeal the Jackson-Vanik amendment to Title IV of the 1974 Trade Act and to authorize the extension of normal trade relations to the products of the Russian Federation.

Congress passed the Jackson-Vanik amendment as a means to deny Permanent Normal Trade Relations to communist countries that restricted emigration rights and were not market economies. Jackson-Vanik continues to apply to the Russian Federation today despite the findings of successive Administrations that Russia had come into full compliance with requirements of freedom of emigration, including the absence of any tax on emigration. Furthermore, although Russia's transformation has been imperfect, substantial progress has been made toward the creation of a free-market economy.

Since the fall of the Soviet Union, there have been dramatic changes in all aspects of life in Russia. It is clear that the Jackson-Vanik amendment played a role in bringing about these changes and in promoting freedom of emigration in many countries in the former Soviet Union.

But, the time has come to move beyond the Cold War era.

Since 1991, Congress has authorized the removal of Jackson-Vanik restrictions from Estonia, Latvia, Lithuania, the Czech Republic, the Slovak Republic, Hungary, Bulgaria, Romania, Kyrgyszstan, Albania, and Georgia. Because Russia continues to be subject to Jackson-Vanik conditions, the Administration must submit a semi-annual report to the Congress on that government's continued compliance with freedom of emigration requirements. The Administration reports that this requirement continues to be a major irritant is U.S. relations with Russia. The changed circumstances that have permitted the removal of other communist countries from Title IV reporting now apply equally to Russia.

I understand there remain those with concerns about extending nondiscriminatory treatment to the products of the Russian Federation. But I would simply point out that the U.S. and Russia concluded a bilateral trade agreement on June 17, 1992 and that Russia is currently in the process of acceding to the World Trade Organization. In other words, the time has come to take the next step in the U.S.-Russian bilateral relationship, namely, Permanent Normal Trade Relations. It is for that purpose that I introduce this legislation today.

By Mr. GRAHAM:

S. 1863. A bill to amend the Internal Revenue Code of 1986 to clarify treatment for foreign tax credit limitation purposes of certain transfers of intangible property; to the Committee on Finance.

Mr. GRAHAM. Mr. President, today I am introducing legislation that will clarify the proper tax treatment of intangible assets transferred to foreign corporations. This bill is necessary to avoid trapping unwary taxpayers who relied on Congressional intent when it made changes to this area of the tax code in 1997.

Transfers of intangible property from a U.S. person to a foreign corporation

in a transaction that would be tax-free under Code section 351 or 361 are subject to special rules. Pursuant to section 367(d), the U.S. person making such a transfer is treated as 1. having sold the intangible property in exchange for payments that are contingent on the productivity, use, or disposition of such property and 2. receiving amounts that reasonably reflect the amounts that would have been received annually over the useful life of such property. The deemed royalty amounts included in the gross income of the U.S. person by reason of this rule are treated as ordinary income and the earnings and profits of the foreign corporation to which the intangible property was distributed are reduced by such amounts.

Prior to the Taxpayer Relief Act of 1997 (the ''1997 Act''), the deemed royalties under section 367(d) were treated as U.S.-source income and therefore were not eligible for foreign tax credits. The 1997 Act eliminated this special ''deemed U.S. source rule'' and provided that deemed royalties under section 367(d) are treated as foreign-source income to the same extent that an actual royalty payment would be so treated. The 1997 Act reflected a recognition that the previous rule was intended to discourage transfers of intangible property to foreign corporations, relative to licenses of such intangible property, but that the enhanced information reporting included in the 1997 Act made it unnecessary to continue to so discourage transfers relative to licenses.

The 1997 Act intended to eliminate the penalty provided by the prior-law deemed U.S. source rule under section 367(d) and that had operated to discourage taxpayers from transferring intangible property in a transaction that would be covered by section 367(d). Prior to the 1997 Act, in order to avoid this penalty, taxpayers licensed intangible property to foreign corporations instead of transferring such property in a transaction that would be subject to section 367(d). With the 1997 Act's elimination of the penalty source rule of section 367(d), it was intended that taxpayers could transfer intangible property to a foreign corporation in a transaction that gives rise to deemed royalty payments under section 367(d) instead of having to structure the transaction with the foreign corporation as a license in exchange for actual royalty payments.

The 1997 Act's goal of eliminating the penalty treatment of transfers of intangible property under section 367(d) is achieved only if the deemed royalty payments under section 367(d) not only are sourced for foreign tax credit purposes in the same manner as actual royalty payments, but also are characterized for foreign tax credit limitation purposes in the same manner as actual royalty payments. Without a clarification that the deemed royalty payments under section 367(d) are characterized for foreign tax credit limitation purposes in the same manner as an actual royalty, there is a risk in many cases that such deemed royalties would be characterized in a manner that leads to a foreign tax credit result that is equally as disadvantageous as the result that arose under the penalty source rule that was intended to be eliminated by the 1997 Act. The bill I am introducing today provides the needed clarification of the foreign tax credit limitation treatment of a deemed royalty under section 367(d), ensuring that the penalty that was intended to be eliminated with the 1997 Act is in fact eliminated.

The bill clarifies that the deemed income inclusions under section 367(d) upon a transfer of intangible property to a foreign corporation are characterized for purposes of the foreign tax credit limitation rules in the same manner as an actual royalty is characterized. The tax treatment of such a transfer of intangible property to a foreign corporation thus would be the same as the tax treatment that applies if the intangible property is made available to the foreign corporation through a license arrangement.

The bill's provision would be effective for income inclusions under section 367(d) on or after August 5, 1997, which is the effective date of the 1997 Act provision eliminating the special deemed U.S. source rule under section 367(d). Like the 1997 Act provision, the bill's provision would be effective for transfers made, and for royalties deemed received, on or after August 5, 1997.

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. 1863

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

SECTION 1. CLARIFICATION OF TREATMENT OF CERTAIN TRANSFERS OF INTANGIBLE PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 367(d)(2) of the Internal Revenue Code of 1986 (relating to transfer of intangibles treated as transfer pursuant to sale of contingent payments) is amended by adding at the end the following new sentence: ''For purposes of applying the various categories of income described in section 904(d)(1), any such amount shall be treated in the same manner as if such amount were a royalty.''.

(b) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1131(b) of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claimed therefor is filed before the close of such period.

By Ms. MIKULSKI (for herself, Mr. HUTCHINSON, Mr. KERRY, Mr. JEFFORDS, Mr. GREGG, Mr. DASCHLE, Mr. FRIST, Mr. KENNEDY, Ms. COLLINS, Mr. LIEBERMAN, Mr. ENZI, Mrs. CLINTON, Mr. WARNER, Mr. JOHNSON, Mr. ROBERTS, Mrs. LINCOLN, Mrs. HUTCHISON, Mrs. MURRAY, Mr. SMITH of Oregon, Mr. SARBANES, Mr. HAGEL, Mr. TORRICELLI, Mr. COCHRAN, Mr. DAYTON, Mr. CHAFEE, Mr. GRAHAM, Mr. LUGAR, Ms. CANTWELL, Mr. HATCH, Mr. LEAHY, Mrs. CARNAHAN, Mr. ROCKEFELLER, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Mr. INOUYE, Mr. MILLER, MR. WELLSTONE, Mr. HARKIN, Mr. SANTORUM, Mr. REED, and Mr. BOND):

S. 1864. A bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes; considered and passed.

Ms. MIKULSKI. Mr. President, I rise to introduce the Nurse Reinvestment Act. This bill is a down payment to help address the nursing shortage in this country by bringing more people into the nursing profession and by retaining nurses. This bill combines the Nursing Employment and Education Development Act, S. 721, introduced by Senator TIM HUTCHINSON and myself and the Nurse Reinvestment Act, (S. 1597), introduced by Senators KERRY and JEFFORDS. We have all worked together to bring this important legislation before the Senate today.

This bill is sorely needed, because we have a nursing shortage. In Maryland, 15 percent of the nursing jobs are vacant. Last year, it took an average of 68 days to fill a nurse vacancy, and we need about 1,600 more full-time nurses to fill those vacancies. There were 2,000 fewer nurses in Maryland in 1999 than there were in 1998. The shortage exists across the United States, and will get worse in the future. Nationwide, we need 1.7 million nurses by the year 2020, but only about 600,000 will be available. The need for this bill was clear at the Subcommittee on Aging's hearing on the nursing shortgage earlier this year.

We depend on nurses every day to care for millions of Americans, whether in a hospital, nursing home, community health center, hospice, or through home health. They are the backbone of our health care system. If we don't effectively address the crisis in nursing, those hospitals, nursing homes and clinics will soon be on life support.

This bill is a down payment. It doesn't address the fact that nurses are underpaid, overworked, and undervalued, but it does focus on education and other important areas. This bill seeks to help bring men and women into the nursing profession, and help them to advance within it. The bill does this under five major approaches:

Creates a National Nurse Service Corps Scholarship Program, which provides scholarships in exchange for at least two years of service in a critical nursing shortage area or facility

Provides grants for outreach at primary and secondary schools; scholarships or stipends to nursing students from disadvantaged backgrounds, education programs for students who need assistance with math, science, or other areas; dependent care and transportation assistance; establishment of partnerships between schools of nursing and health care facilities to improve access to care in underserved areas

Creates state and national public awareness and education campaigns to enhance the image of nursing, promote diversity in the nursing workforce, and encourage people to enter the nursing profession

Creates ''career ladder'' programs with schools of nursing and health care facilities to encourage individuals to pursue additional education and training to enter and advance within the nursing profession

Enables Area Health Education Centers, AHECs, to expand their junior and senior high school mentoring programs for nurses and develop ''models of excellence'' for community-based nurses

Trains individuals to provide long-term care to the elderly and expands educational opportunities in gerontological nursing

Creates internship and residency programs that encourage mentoring and the development of specialties

Provides grants to improve workplace conditions, reduce workplace injuries, promote continuing nursing education and career development, and establish nurse retention programs

Provides scholarships, loans, and stipends for graduate-level education in nursing in exchange for teaching at an accredited school of nursing, to help ensure that we have enough teachers at our nursing schools.

Creates a National Commission on the Recruitment and Retention of Nurses to study and make recommendations to the health care community and Congress on how to address: the nursing shortage in the long-term, nursing recruitment and retention, career advancement within the profession and attracting individuals into the profession.

This bill is about nursing education, but it's also about empowerment. We can empower people to have a better life and go into a career to save lives.

The bill will empower the single mom who has been working in a minimum wage job to forge a better life for herself and her family. It will help her get a scholarship to help pay for tuition, books, and lab fees, and by funding child care programs to help her balance work and family.

The bill will empower the nurse who has a baccalaureate degree, but wants to get a Master's degree so she can teach nursing at a community college. It will help her get loans or scholarships and living stipends to pursue that degree.

This bill will also fund partnerships between schools of nursing and health care facilities to train individuals who will provide long-term care for the elderly. Our population is aging, more than 70 million Americans will be over age 65 by 2030. This means more people will need care provided by nurses and other individuals specifically trained to care for the unique health needs of older Americans.

I look forward to the Senate's speedy passage of this important legislation and to working with our colleagues in the House of Representatives to enact a strong bill that gets behind our Nation's nurses. I also want to thank Senators KENNEDY, GREGG, and FRIST for their hard work in moving this legislation forward, as well as Senators LIEBERMAN and CLINTON for their important contributions to this bill.

Mr. HUTCHINSON. Mr. President, I am proud to be a lead cosponsor of the legislation we are introducing today to address the critical shortage of nurses in our country. After holding two hearings earlier this year to examine the nurse shortage and its impact on our health care delivery system. I introduced S. 721, the Nurse Employment and Education Development Act, NEED Act. This bipartisan legislation seeks to encourage individuals to enter the nursing profession, provide continued education and opportunities for advancement within the profession, and to bolster the number of nurse faculty to teach at our nursing schools. Most importantly, its legislation would establish a Nurse Service Corps, which would provide financial assistance to individuals for nurse education in exchange for 2 years of service in a nurse shortage area.

The NEED Act won unanimous approval by the Senate Health, Education, Labor and Pensions Committee on November 1, and I am pleased that it has served as the basis for the legislation we are introducing today.

The nursing profession is suffering from a serious decline in practicing nurses due to a shrinking pipeline. The nursing profession as a whole is aging, the average age of Registered Nurses is 43.3 years, while nurses under age 30 comprise less than 10 percent of today's nurse workforce. Large numbers of nurses are retiring or leaving the profession, and only a small number of nurses and nurse educators are taking their place. By the year 2020, when millions of Baby Boomers will retire, it is projected that nursing needs will be unmet by at least 20 percent. For this reason, we need to employ innovative recruitment techniques, including a Nurse Service Corps, public service announcements, and outreach efforts at elementary and secondary schools to promote nursing as a viable, fulfilling career option. To address the needs of the elderly, the bill will provide grants for gerontological education and training.

Hospitals, nursing homes, community health centers and other health care facilities are desperately seeking nurses to fill vacant positions so they can continue to provide safe, quality health care. In Arkansas, hospitals have reported over 750 nursing vacancies. To encourage nurses to stay and advance within the profession, the nursing bill provides for a career ladder program and encourages hospitals and other employers to develop innovative retention strategies. The bill also encourages speciality training and mentors through an internship and residency program, in order to fill the void created by experienced nurses leaving the profession.

Finally, the bill addresses the critical need for nurse educators. The number of nursing school graduates in Arkansas is at its lowest in a decade, and nursing students have been turned away because of the lack of faculty to teach them. There are approximately four hundred nurse faculty vacancies in nursing schools nationwide. Therefore we include two provisions, a nurse faculty fast-track loan repayment program and a stipend and scholarship program, both of which provide financial assistance to masters and doctoral students who will teach at an accredited school of nursing for each year of assistance.

This has been a team effort. I want to thank Senators MIKULSKI, KERRY, and JEFFORDS for their contributions to this important legislation, and I urge my colleagues to support its passage.

Mr. KERRY. Mr. President, I am pleased to join my colleagues Senators JEFFORDS, HUTCHINSON and MIKULSKI in re-introducing the Nurse Reinvestment Act. This legislation will increase the number of nurses in our country, and also ensure that every nurse in the field has the skills he or she needs to provide the quality care patients deserve.

We are in the midst of a serious nursing workforce shortage. Every type of community, urban, suburban and rural, is touched by it. No sector of our health care system is immune to it. Across the country, hospitals, nursing homes, home health care agencies and hospices are struggling to find nurses to care for their patients. Patients in search of care have been denied admission to facilities and told that there were ''no beds'' for them. Often there are beds, just not the nurses to care for the patients who would occupy them.

Our Naiton has suffered from nursing shortages in the past. However, this shortage is particularly severe because we are losing nurses at both ends of the pipeline. Over the past five years, enrollment in entry-level nursing programs has declined by 20 percent. Lured to the lucartive jobs of the new economy, high school graduates are not pursuing careers in nursing in the numbers they once had. Consequently, nurses under the age of 30 represent only 10 percent of the current workforce. By 2010, 40 percent of the nursing

workforce will be over the age of 50, and nearing retirement. If these trends are not reversed, we stand to lose vast numbers of nurses at the same time that they will be needed to care for the millions of baby boomers enrolling in Medicare.

The Nurse Reinvestment Act will support the recruitment of new students into our Nation's nursing programs. The bill will fund national and local public service announcements to enhance the profile of the nursing profession and encourage students to commit to a career in nursing. Our legislation will also expand school-to-career partnerships between health care facilities, nursing colleges, middle schools and high schools to show our youth the value of a nursing degree.

Our legislation will ensure that barriers to higher education do not dissuade Americans who are interested in nursing from pursuing a degree in the field. The Nurse Reinvestment Act will support education for students who need help getting-up to speed on math, science and medical English. Our legislation will also ensure that there is support for single moms and dads with children who need a hand in daycare or a lift in getting to their classroom because they are without transportation.

Still, is it not enough to simply encourage more individuals to enter the nursing profession, we must also ensure that our schools of nursing have enough professors to teach them. The Nurse Reinvestment Act provides for a fast-track facility development program, which encourages master's and doctoral students to rapidly complete their studies through loans and scholarships. Individuals receiving financial assistance through the fast-track faculty program must agree to teach at an ascredited school of nursing in exchange for this assistance.

In addition to recruiting new nurses, our legislation will reinvest in nurses who are already practicing by providing them with education and training at every step of the career ladder and at every health care facility in which they work. It will ensure that nurses can obtain advanced degrees, from a B.S. in Nursing to a PhD in Nursing. It will enable nurses to access the specialty training they require to learn how to treat a specific disease or utilize a new piece of technology. Our bill will also help colleges and universities develop curriculum in gerontology and long-term care so that nursing students can pursue concentrations, minors and majors in this growing field of health care and be ready to apply their knowledge to the current and future senior population.

To assist institutions in providing advanced education and training for nurses across the career ladder, our bill will strengthen the partnerships between colleges of nursing and health care facilities. Grants will be available to support such initiatives as the teaching of a course in gerontology in the conference rooms of a hospital or nurusing home. Grants will also support the use of distance learning technology to extend education and training to rural areas, and specialty education and training to all areas.

The Nurse Reinvestment Act will authorize, for the first time in history, a National Nurse Service Corps. Separate from, though modeled after, the National Health Service Corps, the NNSC will administer scholarships to students who commit to working in a health care facility that is experiencing a shortage of nurses. In urban, suburban and rural communities across the country, where facilities turn away patients due to staff shortages, the NNSC will send qualified nurses to serve and provide the care that patients deserve.

Our country boasts the best health care system in the world. But, that health care system is being jeopardized by the shortage plaguing our nursing workforce. Indeed, state-of-the-art medical facilities are of no use if their beds go unfilled and their floors remain empty because the nurses needed to staff them are not available. The Nurse Reinvestment Act not only seeks to increase the numbers of new nurses in our country, but also ensures that all nurses have the skills they need to provide the high quality care that makes our health care system the best in the world.

Mr. JEFFORDS. Mr. President, I am especially pleased that the Senate is scheduled to consider and vote on the Nurse Reinvestment Act. When we pass this measure, it will represent a good day for the future of nursing in America and a good day for the future for patient-care. I want to take this opportunity to tell our colleagues a little about this legislation and to congratulate and complement my fellow Senators who worked so hard to see this effort through. My good friend from Massachusetts, Senator KERRY, was the original sponsor of the Nurse Reinvestment Act and with me crafted an innovative set of solutions to the nursing shortage problem. Since then, this bill has been strengthened significantly by the inclusion of a complimentary measure authored by my colleagues on the HELP Committee, Senator HUTCHINSON and Senator MIKULSKI. The measure we are considering today has been benefited by this collaboration.

As I have stated before, we are facing a looming crisis in this country. The size of our nursing workforce remains stagnant, while the average age of the American nurse is on the rise. Over the past five years, enrollment in entry-level nursing programs has declined by 20 percent. Nurses under the age of 30 represent only 10 percent of the current workforce. By 2010, 40 percent of the nursing workforce will be over the age of 50, and nearing retirement. In Vermont we are facing an even greater crisis because these numbers are worse. Only 28 percent of nurses are under the age of 40 and Vermont schools and colleges are producing 31 percent fewer nurses today than they did just five years ago.

We have a compelling need to encourage more Americans to enter the nursing profession and to strengthen it so that more nurses choose to stay in the profession. All facets of the health care system will have a role to play in ensuring a strong nursing workforce. Nurses, physicians, hospitals, nursing homes, academia, community organizations and state and federal governments all must accept responsibility and work towards a solution. Part of the responsibility to launch that effort begins with us today as we make a decision on the vote for the Nurse Reinvestment Act.

The Nurse Reinvestment Act expands and improves the federal government's support of ''pipeline'' programs, which will maintain a strong talent pool and develop a nursing workforce that can address the increasingly diverse needs of America's population. The Nurse Reinvestment Act provides for a comprehensive public awareness and education campaign on a national, state and local level that will bolster the image of the profession, encourage diversity, attract more nurses to the workforce, and lead current nurses to take advantage of career development opportunities.

The legislation creates a National Nursing Service Corps Scholarship Program authorized at $40 million that will provide scholarships to individuals to attend nursing schools in exchange for a commitment to serve two years in a health facility determined to have a critical shortage of nurses. This scholarship program is designed to greatly help the recruitment of nursing students by providing them tuition, other reasonable and necessary educational fees and a monthly stipend paid to the student.

The Act also authorizes the ''Nurse Recruitment Grant Program'' to support outreach efforts by nursing schools and other eligible healthcare facilities to inform students in primary, junior and secondary schools of nursing educational opportunities and to attract them to the nursing profession. The grant program provides appropriate student support services to individuals from disadvantaged backgrounds and creates community-based partnerships to recruit nurses in medically underserved rural and urban areas. Further, the ''Area Health Education Centers Program'' will award grants to nursing schools that work in partnership in the community to develop models of excellence.

The ''Career Ladder Programs'' will assist schools of nursing, health care facilities or partnerships of the two to develop programs that will encourage current nursing students in active nurses alike, to pursue further education and training. This will be achieved through scholarships, stipends, career counseling, direct training and distance learning programs.

And, in light of our aging baby-boomer generation, specific grants are offered to schools and health care facilities so that they might place a further emphasis upon encouraging students to study long-term care for the elderly.

In addition to the provisions that were included in the original bill I cosponsored with my colleague Senator KERRY, there are provisions added by our colleagues which, I am happy to have included in this final piece of legislation. Those provisions will provide for the development of internship and residency programs to encourage the development of specialties and student, loan, stipend and scholarship programs for those who would like to seek a masters or doctorate degree at a school of nursing. The final bill was also strengthened by provisions added through the efforts of Senator LIEBERMAN and Senator CLINTON.

Once again, I want to applaud my colleagues Senator KERRY, Senator MIKULSKI and Senator HUTCHINSON for their tireless work on the Nurse Reinvestment Act and for the work of their staffs. In particular, I want to recognize the efforts of Kelly Bovio in Senator KERRY,'s office, Kate Hull in Senator HUTCHINSON's office and Rhonda Richards with Senator MIKULSKI. This effort was also advanced with the help of Sarah Bianchi and Jackie Gran who are members of Senator KENNEDY's staff, Steve Irizarry with Senator GREGG and Shana Christrup with Senator FRIST. Finally, in my own office, I want to note the efforts of Philo Hall, Angela Mattie, Eric Silva and Sean Donohue.

Adequate health care services cannot survive any further diminishing of the nursing workforce. All patients depend on the professional care of nurses, and we must make sure it will be there for them. I urged my colleagues to join me and the bill's cosponsors in support of this measure.

Mr. FRIST. Mr. President, I rise today to discuss the introduction of a very important bill to address the nursing workforce shortage. At the beginning of November, we reported two different bills from the Senate HELP Committee designed to address the nursing shortage in this country, the Hutchinson-Mikulski ''Nursing Employment and Education Development Act'' and the Kerry-Jeffords ''Nursing Reinvestment Act.'' I was an original cosponsor of the Hutchinson legislation and a strong supporter of that bill. At that time, I voiced my concern that we are marking up two rather similar proposals to deal with the nursing shortage, and I requested that the differences be worked out before the bill was discussed on the Senate floor. I am happy today to report the the final reconciliation is complete, and we have a consensus bill that firmly addresses the nursing workforce shortage issue. I thank Senator HUTCHINSON for his hard work in ensuring that we could reach this point.

We are in the midst of a direct care workforce shortage. Not only are fewer people entering and staying in the nursing profession, but we are losing experienced nurses at a time of growing need. Today, nurses are needed in a greater number of settings, such as nursing homes, extended care facilities, community and public health centers, professional education, and ambulatory care facilities. Nationwide, health care providers, ranging from hospitals and nursing homes to home health agencies and public health departments, are struggling to find qualified nurses to provide safe, efficient, quality care for their patients. That's why it is important to have a new Nursing Corps, which will provide scholarships to qualified individuals in exchange for direct care service in a variety of settings as well as to allow others to know about the numerous possibilities within the profession by authorizing public service announcements.

Though we have faced nursing shortages in the past, this looming shortage is particularly troublesome because it reflects two trends that are occurring simultaneously: 1. A shortage of people entering the profession; and 2. The retirement of nurses who have been working in the profession for many years. Over the past five years, enrollment in entry-level nursing programs has declined by twenty percent, mirroring the declining awareness of the nursing profession among high school graduates. Consequently, nurses under the age of thirty represent only ten percent of the current workforce. By 2010, forty percent of the nursing workforce will be older than fifty years old and nearing retirement. If these trends continue, we stand to lost vast numbers of nurses at the very time that they will be needed to care for the millions of baby boomers reaching retirement age. To deal with the increased need for nurses to care for the elderly, this bill has a provision to assist with both the necessary training and educational development of gerontological nurses as well as to strengthen the ability of nurses to obtain additional training and certification through the career ladders program.

Further, greater efforts must be made to recruit more men and minorities to this noble profession. Currently, only ten percent of the registered nurses in the United States are from racial or ethnic minority backgrounds, even though these individuals comprise twenty-eight percent of the total United States population. In 2000, less than six percent of the registered nurses were men. We must work to promote diversity in the workforce, not only to increase the number of individuals within the profession, but also to promote culturally competent and relevant care. Within the combined nursing shortage bill, one grant program directly addresses the need to increase funding for the training of minority and disadvantaged students to make it easier for individuals to enter the nursing profession.

Even if nursing schools could recruit more students to deal with the shortage, many schools could not accommodate higher enrollments because of faculty shortages. There are nearly four hundred faculty vacancies at nursing schools in this country. And, an even greater faculty shortage looms in the next ten to fifteen years as many current nursing faculty approach retirement and fewer nursing students pursue academic careers. Therefore, I strongly support the two provisions to assist with faculty development and training, the fast track nursing faculty loan program and the stipend and scholarship program.

In addressing these direct care staffing shortages, we must work together to develop innovative solutions to address this growing issue. As reported in the Memphis Commercial Appeal on May 10, there are steps that Congress can take to increase funding for specific programs and reduce regulatory requirements. However, a comprehensive strategy must also include other sectors of the health care system, hospitals, health care professionals, educators, and the general public, to successfully deal with this looming shortage. That's why it is important to also include a provision to deal with developing retention strategies and best practices in nursing staff management.

I am extremely supportive of this legislation, and I want to thank Senator HUTCHINSON again for his hard work in addressing this critical issue. I also want to commend my other colleagues, including Senator MIKULSKI, for her efforts. Senator HUTCHINSON clearly has shown tremendous leadership in this area. He understands the need to address the nursing shortage issue, and he is largely responsible for getting us to this point today.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in introducing the Nurse Reinvestment Act. Our goal in this bipartisan legislation is to do as much as we can to alleviate the nursing shortage experienced by health care facilities across the United States. Increasing the number of nurses is an essential part of the ongoing effort to reduce medical errors, improve patient outcomes, and encourage more Americans to become and remain nurses.

The Nation's nurses provide care for Americans at the most vulnerable times in the lives. We must act now to halt the decline in the number of nurses. Enrollment in schools of nursing is falling, and the average age of the nursing workforce is rising. Across the country, communities are losing vast numbers of nurses, just as we need more to care for the millions of aging baby boomers and deal with the many medical challenges facing our hospitals.

The current shortage means that too many nurses now have to care for too many patients at once, undermining the high quality of care that nurses want to give, and patients deserve. A

recent survey by the American Nurses Association showed that 75 percent of nurses believe that the quality of nursing care at their facility has declined. More than half of those surveyed said that the time they can spend with patients has decreased. A nurse in Massachusetts said that she would not go the hospital where she worked, if she needed care.

Nationally, the shortfall is expected to rise to 20 percent in the coming years. Yet nurses themselves are already seriously questioning the quality of bedside treatments now being provided on intensive care units, in emergency rooms, and at the bedsides of patients where they work.

Their questions are call for help. This legislation can be significant in strengthening the nursing profession, and responding to the urgent need.

The Nurse Reinvestment Act will recruit new students into schools of nursing through outreach programs, public awareness and education campaigns, and area health education centers. It establishes a national nurse service corps, which will offer scholarships to bring individuals into the profession and place them in medically underserved areas and facilities. The Act expands school-to-career partnerships to show youths the high value and importance of a nursing degree. It invests in today's nurses by providing education and training at every step of the career ladder, and by helping them obtain advanced degrees, from a B.S. in Nursing to a Ph.D. in Nursing. It includes provisions developed by Senator LIEBERMAN and Senator CLINTON to help health care facilities retain nurses.

Our country has the best health care system in the world. But that system is being jeopardized today by the shortages plaguing the nursing workforce. Even our best medical facilities are in deep trouble if their beds go unfilled and their floors remain empty because there are no nurses to staff them.

I commend Senator MIKULSKI, Senator KERRY, Senator HUTCHINSON, and Senator JEFFORDS for their leadership in this initiative. Bringing more nurses into the profession will help to ensure that nurses are ready and able to provide the highest quality of care to their patients. The Nurse Reinvestment Act is a significant step that Congress can take to support the Nation's nurses, and I urge my colleagues to support it.

Mr. LIEBERMAN. Mr. President, I am proud to be an original cosponsor of the Nurse Reinvestment Act of 2001. I want to congratulate my colleagues, particularly Senators MIKULSKI, HUTCHINSON, KERRY and JEFFORDS, for their extraordinary efforts to put together this excellent bill. I also want to thank the Committee for including the provisions of the LIEBERMAN-ENSIGN ''Hospital Based Nursing Initiative Act of 2001'' in the bill.

By now, everyone knows that the nation faces a critical shortage of nurses. The shortage has already severely impacted states in many areas of the country, including Connecticut, and I fear it will jeopardize our ability to provide quality health care to patients. A recent report by the Government Accounting Office projected that the growing national nursing shortage will hit a peak in ten years.

While pay is a major factor cited in the report, it is not the primary reason nurses are leaving the profession. The study also cites poor or unsafe working conditions, lack of respect from physicians and patients, barriers to participation in the hospital administration decision-making process, lack of opportunity to continue their education, and lack of recognition for accomplishments. We must do more to attract new people to the nursing profession and retain the quality nurses who currently provide us care. The Nurse Reinvestment Act will do just that.

I want to take just a minute to talk about the specific provisions that were part of the ''Hospital Based Nursing Initiative Act.'' This legislation contained two proposals to help retain nurses in the hospital setting: a competitive grant program that would provide funding to hospitals that actively work to retain their nurses and a scholarship program for registered nurses who hold an associates or diploma degree who wish to obtain a bachelor's degree in nursing.

As part of the Nurse Reinvestment Act, these incentives have been broadened to apply to the nursing workforce in all health care facilities, providing a critical stimulus for these facilities to retain their nurses.

While the ominous projections about the growing nursing shortage looms over the health care industry, it is clear that now is the time to act. I am encouraged that Congress is acting quickly and decisively to actively add to the nurse workforce and to provide critical incentives to keep nurses on the job.

By Mrs. BOXER:

S. 1865. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am pleased to be introducing today a bill that will take an important first step in restoring the San Gabriel River and Lower LA River, which run through Los Angeles, CA. These two rivers have suffered from years of abuse and neglect. For far too long, we have channeled, redirected, constricted, polluted, and simply ignored these two rivers. The result is that substantial portions of these rivers look nothing like their natural form. Instead of soft bottoms covered with aquatic grasses, stream banks lined with trees and bushes, and waters teaming with fish, these rivers have cement bottoms, cement banks, and little remaining wildlife.

Today, we begin what will be a long, slow process in turning the tide for these two urban waterways. This bill directs the Secretary of Interior to conduct a study of the suitability and feasibility of protecting and restoring these two rivers by making them a part of our national park system. The long term vision I have is to see these rivers restored to a more natural state so that they can be a home to southern California's unique fish and wildlife.

Just as important to me is that these rivers be restored so they can serve as a source of outdoor recreation for one of our Nation's most congested urban areas. Most communities in Los Angeles are desperate for open space. They seek outdoor areas where children can play, adults can meet, and people of all ages can find respite from the daily hustle and bustle of some of our most economically and socially stressed neighborhoods.

What I am proposing would be an unprecedented urban restoration effort. But that does not mean it is impossible. Far from it. This vision is shared by Congresswoman HILDA SOLIS, who first introduced this bill in the House of Representatives. I look forward to working hand in hand with her to ensure that this dream becomes a reality.

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. 1865

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 ''Lower Los Angeles River and San Gabriel River Watersheds Study Act of 2001''.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) WATERSHED.—The term ''watershed'' means—

(A) the Lower Los Angeles River and its tributaries below the confluence of the Arroyo Seco;

(B) the San Gabriel River and its tributaries in Los Angeles County and Orange County, California; and

(C) the San Gabriel Mountains located within the territory of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (as defined in section 32603(c)(1)(C) of the State of California Public Resource Code).

SEC. 3. AUTHORIZATION OF STUDY.

(a) IN GENERAL.—The Secretary shall carry out a study on the suitability and feasibility of establishing the watershed as a unit of the National Park System.

(b) APPLICABLE LAW.—Section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) shall apply to the conduct and completion of the study required by subsection (a).

(c) CONSULTATION WITH STATE AND LOCAL GOVERNMENTS.—In carrying out the study authorized by subsection (a), the Secretary shall consult with—

(1) the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy; and

(2) any other appropriate State or local governmental entity.

SEC. 4. REPORT.

Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study required by section 3(a).

By Mr. LIEBERMAN (for himself and Mr. MCCAIN):

S. 1867. A bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes; to the Committee on Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise to introduce with my colleague Senator MCCAIN legislation to establish the National Commission on Terrorist Attacks Upon the United States. This Commission will have a broad mandate to examine and report upon the facts and causes relating to the September 11, 2001 terrorist attacks occurring at the World Trade Center and at the Pentagon, and it will be charged with making a ''full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks.'' It will ''investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.''

Certain events stand out in our history for having left an indelible mark of pain and sorrow on America. The infamous attack on Pearl Harbor not only roused a slumbering giant, but also raised difficult questions about why our great Navy had been caught unawares. The tragic assassination of President John F. Kennedy evoked powerful feelings of sorrow and loss, but also searching questions about the identity and motives of the assassin. And on this past September 11, the United States suffered assaults on its territory unparalleled in their cruelty, destruction and loss of life. Americans were stunned both by the magnitude of the loss and the maliciously simple plan that had caused the carnage. Here too, alongside their grief and rage, the American people have been asking questions: Why was this plan so successful in achieving its evil goals? Were opportunities missed to prevent the destruction? What additional steps should be taken now to prevent any future attacks?

In the immediate aftermath of both Pearl Harbor and the Kennedy assassination, special commissions were formed to conduct investigations and answer similar questions. These precedents provide us with important models as we seek answers to such questions, and then use the findings to move forward with strategies to respond to the scourge of terrorism. Like many of my constituents, I too want to know how September 11 happened, why it happened, and what corrective measures can be taken to prevent it from ever occurring again. The American people deserve answers to these very legitimate questions about how the terrorists succeeded in achieving their brutal objectives, and in so doing, forever changing the way in which we Americans lead our lives.

To be successful, this Commission must have a number of resources, including enough time, a top level staff, ample investigatory powers, and adequate funding, all of which we have provided for in this legislation. But most critically, it must have broad bipartisan support. This Commission must not become a witch-hunt. The events of September 11 were so cataclysmic that there is enough responsibility to be shouldered by multiple parties. The overriding purpose of the inquiry must be a learning exercise, to understand what happened without preconceptions about its ultimate findings.

Just as Presidents Roosevelt and Johnson turned to national leaders of their day, Justice Roberts and Chief Justice Warren, to spearhead the Pearl Harbor and Kennedy assassination inquiries, respectively, this Commission must also draw upon the great reservoir of bipartisan talent that our nation possesses to answer crucial and fundamental questions. We expect that members appointed to this blue-ribbon Commission will be prominent U.S. citizens, though not currently serving in public office, with ''national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.''

To help ensure that members of the Commission will possess some of these substantive areas of expertise, which are so critical to understanding and analyzing the events of September 11, 10 of its 14 members will be appointed by the Senate and House chairmen, in consultation with their ranking minority members, of the Congressional committees that oversee Intelligence, Foreign Affairs, Armed Services, Judiciary, and Commerce. President Bush will appoint the four remaining members of the Commission, including the Chairman, who in turn will appoint the staff. In an effort to mandate bipartisanship, or perhaps more accurately, non-partisanship, no more than 7 of the Commission's 14 members may be from one political party.

Though some of the Commission's recommendations may include ''proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations,'' we cannot wait for the findings of this report to begin the process of strengthening our Nation's homeland defense. That process, of course, is already underway, and must continue to occur at a rapid pace to ensure the continued protection of American lives and property. This Commission will not issue its first report until six months after its first meeting, and its final report will be issued another year after that. Rather than wait for these reports to be researched and submitted, we must continue the process we have already started to pro-actively address vulnerabilities that undermine our daily safety. We have already received the valuable input of numerous other experts and Commissions, some of which even issued their prescient warnings before the events of September, such as the Hart-Rudman Commission. When this proposed Commission completes its investigation and makes its final recommendations, those suggestions and conclusions will augment the record we have already developed on ways we can continue to safeguard our nation.

The Commission is not only the right thing to do, but this is the right time to do it. Understandably, the initial months after September 11 were preoccupied first with mourning, and then with prosecution of the war. There were legitimate concerns that a robust investigation into the causes of September 11 would siphon resources from the ongoing war effort. But with the first stage of the war against terrorism now drawing to a close, and with many perplexing questions still before us, we must now begin in earnest the process of finding answers to how it happened. This Commission should not be at odds with the war effort of any federal agency; rather, its efforts will complement the internal review processes some agencies are undergoing.

Determining the causes and circumstances of the terrorist attacks will ensure that those who lost their lives on this second American ''day of infamy'' did not die in vain. In so doing, this Commission will not only pay tribute to those who perished, but it will ensure that their survivors, and all the citizens of this great nation, continue to live life secure in the knowledge that the U.S. government is doing all within its powers to preserve their lives, liberties, and pursuits of happiness.

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. 1867

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

SECTION 1. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this Act referred to as the ''Commission'').

SEC. 2. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(4) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 3. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 14 members, of whom—

(1) 4 members shall be appointed by the President;

(2) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Armed Services of the Senate ;

(3) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Commerce, Science, and Transportation of the Senate;

(4) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on the Judiciary of the Senate;

(5) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Select Committee on Intelligence of the Senate;

(6) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Foreign Relations of the Senate;

(7) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Armed Services of the House of Representatives;

(8) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Energy and Commerce of the House of Representatives;

(9) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on the Judiciary of the House of Representatives;

(10) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Permanent Select Committee on Intelligence of the House of Representatives; and

(11) 1 member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on International Relations of the House of Representatives.

(b) CHAIRPERSON.—The President shall select the chairperson of the Commission.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 7 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 8 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Eight members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 4. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation into relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, practice, or procedure;

(2) review and evaluate the lessons learned from the terrorist attacks of September 11, 2001 regarding the structure, coordination, and management arrangements of the Federal Government relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this Act containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 5. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this Act—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member. Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this Act.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 6. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 7. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 8. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 9. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) ADDITIONAL REPORTS.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this Act $3,000,000, to remain available until expended.

Mr. MCCAIN. Mr. President, I am pleased to join my friend JOE LIEBERMAN in introducing legislation calling for a blue-ribbon commission to examine the facts surrounding the September 11th attacks, and to propose reforms to better defend our country in the future.

After Pearl Harbor and President Kennedy's assassination, the President and Congress established boards of inquiry to investigate these tragedies and recommend measures to prevent their recurrence.

The terrorist attacks in New York and Washington represent a watershed in American history—the end of an era of general peace and prosperity, and a terrible awakening to the threats against our people that lurk within, and beyond, our shores.

To prevent future tragedies, we need to know how September 11th could have happened, and explore what we can do to be sure America never again suffers such an attack on her soil.

I believe President Bush and his team have responded forcefully, admirably, and with a sense of purpose in this time of trial. But neither the Administration nor Congress is capable of conducting a thorough, nonpartisan, independent inquiry into what happened on September 11th, or to propose far-reaching reforms needed to protect our people and our institutions against the enemies of freedom.

As we did after Pearl Harbor and the Kennedy assassination, we need a blue-ribbon team of distinguished Americans from all walks of life to thoroughly investigate all evidence surrounding the attacks, including how prepared we were and how well we responded to this unprecedented assault.

It will require digging deep into the resources of the full range of government agencies. It will demand objective judgment into what went wrong, what we did right, and what else we need to do to deter and defeat depraved assaults against innocent lives in the future.

This is no witch hunt. Our enemies would be strengthened if their attacks caused us to turn on ourselves, consumed not with the malevolence of our foes but with our own failings.

We are a proud nation, a strong nation. However horrible, September 11th reminded us of our love of country, our fierce patriotic pride. It highlighted the distinctive accomplishments of our civilization, and the sacrifices we will endure to defend it against evil. It made us stronger.

That said, if there were serious failures on the part of individuals or institutions within the government or the private sector, we have a right to know, indeed a need to know. But to work, this must be a learning exercise, without preconceptions about the inquiry's ultimate findings.

The commission's members should include leading citizens not now holding public office, but with broad experience in national affairs. The commission should have an adequate budget, a top-level staff, and ample investigatory resources—including subpoena power, if it is needed to uncover the truth.

To be effective and legitimate, the commission should be given a broad mandate to discover facts and recommend corrective actions. It should be given time to proceed with care and deliberation. It should have the stature and significance afforded by its grave mission of telling the whole truth about September 11th, and telling us what we need to know to protect against future tragedy.

To be credible, this inquiry must be independent from ongoing government operations, but it must of necessity draw on the resources of government. The commission's conclusions and recommendations will have enduring meaning only if they are valued by those of us who can set them in motion—the President, the Congress, and all concerned Americans.

Our best defense now lies in pursuing our enemy overseas, and working here at home to adapt to the challenges of this new day. We can rid the world of terrorism's scourge. But it will take time, and our campaign will likely inspire further, desperate tests of our resolve.

More Americans may die before we are through. In this moment when we enjoy peace at home, even as brave Americans risk their lives for us overseas, let us marshal our resolve to defend our homeland, not merely through force of arms, but through reasoned introspection into how September 11th happened, what we've learned, and how we can apply those lessons to the defense of the American people.

More than 2 years ago, the bipartisan Hart-Rudman Commission on National Security envisioned a time when terrorists and rogue nations would acquire weapons of mass destruction and ''mass disruption.''

''Americans will likely die on American soil,'' the commission warned, ''possibly in large numbers.''

That time has come. The worst has happened. But it must not happen again. We hope history will judge America well for her response to September 11th—the incredible bravery of so many Americans, and the measures we have already put in place to prevent future acts of catastrophic terrorism.

The commission is an integral part of our response to the attacks of September 11. Its mission is urgent. The American people clearly share our sense of urgency about protecting our country. I hope our proposed commission can channel that sense of urgency into a mandate for reform of the way we defend America.

By Mr. BIDEN:

S. 1868. A bill to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce the National Child Protection Improvement Act of 2001.

Today, 87 million of our children are involved in provided by child and youth organizations which depend heavily on volunteers to deliver their services. Millions more adults are also served by public and private voluntary organizations. Organizations across the country, like the Boys and Girls Clubs, often rely solely on volunteers to make these safe havens for kids a place where they can learn. The Boys and Girls Clubs and others don't just provide services to kids, their work reverberates throughout our communities, as the after-school programs they provide help keep kids out of trouble. This is juvenile crime prevention at its best, and I salute the volunteers who help make these programs work.

Unfortunately, some of these volunteers come to their jobs with less than the best of intentions. According to the National Mentoring Partnership, incidents of child sexual abuse in child care settings, foster homes and schools ranges from 1 to 7 percent. Volunteer organizations have tried to weed out bad apples, and today most conduct background checks on applicants who seek to work with children. Unfortunately, these checks can often take months to complete, can be expensive, and many organizations do not have access to the FBI's national fingerprint

database. These time delays and scope limitations are dangerous: a prospective volunteer could pass a name-based background check in one state, only to have a past felony committed in another jurisdiction go undetected.

Today I am introducing a bill designed to solve some of these problems. The National Child Protection Improvement Act of 2001 creates a new, FBI national center to conduct criminal history fingerprint checks at the request of volunteer organizations. Funds are authorized so that volunteer organizations could have the national checks performed at no cost to them, the Federal government ought to be supporting those groups who seek to safeguard our kids, and this is a modest investment that deserves to be made. Other child-serving organizations who sought the services of the new national center would have checks conducted at a minimal cost. My bill envisions as many as 10 million background checks conducted per year at this center, enough to prevent felons and other dangerous members of society from getting anywhere near our kids. States perform many of these checks today, so to help them do their jobs better my bill authorizes $5 million per year to hire personnel and improve fingerprint technology so that they can update information in national databases.

All of us understand the positive impact that volunteer organizations are making. Now we need to give these groups the tools and resources they need to ensure absolute safety for the children they serve.

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

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

S. 1868

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 ''National Child Protection Improvement Act''.

SEC. 2. ESTABLISHMENT OF A NATIONAL CENTER ON VOLUNTEER AND PROVIDER SCREENING.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following:

''TITLE VI—NATIONAL CENTER ON VOLUNTEER AND PROVIDER SCREENING

''SEC. 601. SHORT TITLE.

''This title may be cited as the 'National Child Protection Improvement Act'.

''SEC. 602. FINDINGS.

''Congress finds the following:

''(1) More than 87,000,000 children are involved each year in activities provided by child and youth organizations which depend heavily on volunteers to deliver their services.

''(2) Millions more adults, both the elderly and individuals with disabilities, are served by public and private voluntary organizations.

''(3) The vast majority of activities provided to children, the elderly, and individuals with disabilities by public and private nonprofit agencies and organizations result in the delivery of much needed services in safe environments that could not be provided without the assistance of virtually millions of volunteers, but abuses do occur.

''(4) Estimates of the incidence of child sexual abuse in child care settings, foster care homes, and schools, range from 1 to 7 percent.

''(5) Abuse traumatizes the victims and shakes public trust in care providers and organizations serving vulnerable populations.

''(6) Congress has acted to address concerns about this type of abuse through the National Child Protection Act of 1993 and the Violent Crime Control Act of 1994 to set forth a framework for screening through criminal record checks of care providers, including volunteers who work with children, the elderly, and individuals with disabilities. Unfortunately, problems regarding the safety of these vulnerable groups still remain.

''(7) While State screening is sometimes adequate to conduct volunteer background checks, more extensive national criminal history checks using fingerprints or other means of positive identification are often advisable, as a prospective volunteer or nonvolunteer provider may have lived in more than one State.

''(8) The high cost of fingerprint background checks is unaffordable for organizations that use a large number of volunteers and, if passed on to volunteers, often discourages their participation.

''(9) The current system of retrieving national criminal background information on volunteers through an authorized agency of the State is cumbersome and often requires months before vital results are returned.

''(10) In order to protect children, volunteer agencies must currently depend on a convoluted, disconnected, and sometimes duplicative series of checks that leave children at risk.

''(11) A national volunteer and provider screening center is needed to protect vulnerable groups by providing effective, efficient national criminal history background checks of volunteer providers at no-cost, and at minimal-cost for employed care providers.

''SEC. 603. DEFINITIONS.

''In this Act—

''(1) the term 'qualified entity' means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services designated by the National Task Force;

''(2) the term 'volunteer provider' means a person who volunteers or seeks to volunteer with a qualified entity;

''(3) the term 'provider' means a person who is employed by or volunteers or who seeks to be employed by or volunteer with a qualified entity, who owns or operates a qualified entity, or who has or may have unsupervised access to a child to whom the qualified entity provides care;

''(4) the term 'national criminal background check system' means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

''(5) the term 'child' means a person who is under the age of 18;

''(6) the term 'individuals with disabilities' has the same meaning as that provided in section 5(7) of the National Child Protection Act of 1993;

''(7) the term 'State' has the same meaning as that provided in section 5(11) of the National Child Protection Act of 1993; and

''(8) the term 'care' means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

''SEC. 604. ESTABLISHMENT OF A NATIONAL CENTER FOR VOLUNTEER AND PROVIDER SCREENING.

''(a) IN GENERAL.—The Attorney General, by agreement with a national nonprofit organization or by designating an agency within the Department of Justice, shall—

''(1) establish a national center for volunteer and provider screening designed—

''(A) to serve as a point of contact for qualified entities to request a nationwide background check for the purpose of determining whether a volunteer provider or provider has been arrested for or convicted of a crime that renders the provider unfit to have responsibilities for the safety and well-being of children, the elderly, or individuals with disabilities;

''(B) to promptly access and review Federal and State criminal history records and registries through the national criminal history background check system—

''(i) at no cost to a qualified entity for checks on volunteer providers; and

''(ii) at minimal cost to qualified entities for checks on non-volunteer providers;

with cost for screening non-volunteer providers will be determined by the National Task Force;

''(C) to provide the determination of the criminal background check to the qualified entity requesting a nationwide background check after not more than 15 business days after the request;

''(D) to serve as a national resource center and clearinghouse to provide State and local governments, public and private nonprofit agencies and individuals with information regarding volunteer screening; and

''(2) establish a National Volunteer Screening Task Force (referred to in this title as the 'Task Force') to be chaired by the Attorney General which shall—

''(A) include—

''(i) 2 members each of—

''(I) the Federal Bureau of Investigation;

''(II) the Department of Justice;

''(III) the Department of Health and Human Services;

''(IV) representatives of State Law Enforcement organizations;

''(V) national organizations representing private nonprofit qualified entities using volunteers to serve the elderly; and

''(VI) national organizations representing private nonprofit qualified entities using volunteers to serve individuals with disabilities; and

''(ii) 4 members of national organizations representing private nonprofit qualified entities using volunteers to serve children;

to be appointed by the Attorney General; and

''(B) oversee the work of the Center and report at least annually to the President and Congress with regard to the work of the Center and the progress of the States in complying with the provisions of the National Child Protection Act of 1993.

''SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—To carry out the provisions of this title, there are authorized to be appropriated $80,000,000 for fiscal year 2003 and $25,000,000 for each of the fiscal years 2004, 2005, 2006, and 2007, sufficient to provide no-cost background checks of volunteers working with children, the elderly, and individuals with disabilities.

''(b) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.''.

SEC. 3. STRENGTHENING AND ENFORCING THE NATIONAL CHILD PROTECTION ACT OF 1993.

Section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119 et seq.) is amended to read as follows:

"SEC. 3. NATIONAL BACKGROUND CHECKS.

''(a) IN GENERAL.—Requests for national background checks under this section shall be submitted to the National Center for Volunteer Screening which shall conduct a search using the Integrated Automated Fingerprint Identification System, or other criminal record checks using reliable means of positive identification subject to the following conditions:

''(1) A qualified entity requesting a national criminal history background check under this section shall forward to the National Center the provider's fingerprints or other identifying information, and shall obtain a statement completed and signed by the provider that—

''(A) sets out the provider or volunteer's name, address, date of birth appearing on a valid identification document as defined in section 1028 of title 18, United States Code, and a photocopy of the valid identifying document;

''(B) states whether the provider or volunteer has a criminal record, and, if so, sets out the particulars of such record;

''(C) notifies the provider or volunteer that the National Center for Volunteer Screening may perform a criminal history background check and that the provider's signature to the statement constitutes an acknowledgement that such a check may be conducted;

''(D) notifies the provider or volunteer that prior to and after the completion of the background check, the qualified entity may choose to deny the provider access to children or elderly or persons with disabilities; and

''(E) notifies the provider or volunteer of his right to correct an erroneous record held by the FBI or the National Center.

''(2) Statements obtained pursuant to paragraph (1) and forwarded to the National Center shall be retained by the qualified entity or the National Center for at least 2 years.

''(3) Each provider or volunteer who is the subject of a criminal history background check under this section is entitled to contact the National Center to initiate procedures to—

''(A) obtain a copy of their criminal history record report; and

''(B) challenge the accuracy and completeness of the criminal history record information in the report.

''(4) The National Center receiving a criminal history record information that lacks disposition information shall, to the extent possible, contact State and local record-keeping systems to obtain complete information.

''(5) The National Center shall make a determination whether the criminal history record information received in response to the national background check indicates that the provider has a criminal history record that renders the provider unfit to provide care to children, the elderly, or individuals with disabilities based upon criteria established by the National Task Force on Volunteer Screening, and will convey that determination to the qualified entity.

''(b) GUIDANCE BY THE NATIONAL TASK FORCE.—The National Task Force, chaired by the Attorney General shall—

''(1) encourage the use, to the maximum extent possible, of the best technology available in conducting criminal background checks; and

''(2) provide guidelines concerning standards to guide the National Center in making fitness determinations concerning care providers based upon criminal history record information.

''(c) LIMITATIONS OF LIABILITY.—

''(1) IN GENERAL.—A qualified entity shall not be liable in an action for damages solely for failure to request a criminal history background check on a provider, nor shall a State or political subdivision thereof nor any agency, officer or employee thereof, be liable in an action for damages for the failure of a qualified entity (other than itself) to take action adverse to a provider who was the subject of a criminal background check.

''(2) RELIANCE.—The National Center or a qualified entity that reasonably relies on criminal history record information received in response to a background check pursuant to this section shall not be liable in an action for damages based upon the inaccuracy or incompleteness of the information.

''(d) FEES.—In the case of a background check pursuant to a State requirement adopted after December 20, 1993, conducted through the National Center using the fingerprints or other identifying information of a person who volunteers with a qualified entity shall be free of charge. This subsection shall not affect the authority of the FBI, the National Center, or the States to collect reasonable fees for conducting criminal history background checks of providers who are employed as or apply for positions as paid employees.''.

SEC. 4. ESTABLISHMENT OF A MODEL PROGRAM IN EACH STATE TO STRENGTHEN CRIMINAL DATA REPOSITORIES AND FINGERPRINT TECHNOLOGY.

(a) ESTABLISHMENT.—A model program shall be established in each State and the District of Columbia for the purpose of improving fingerprinting technology which shall grant to each State $50,000 to either—

(1) purchase Live-Scan fingerprint technology and a State-vehicle to make such technology mobile and these mobile units shall be used to travel within the State to assist in the processing of fingerprint background checks; or

(2) purchase electric fingerprint imaging machines for use throughout the State to send fingerprint images to the National Center to conduct background checks.

(b) ADDITIONAL FUNDS.—In addition to funds provided in subsection (a), $50,000 shall be provided to each State and the District of Columbia to hire personnel to—

(1) provide information and training to each county law enforcement agency within the State regarding all National Child Protection Act requirements for input of criminal and disposition data into the national criminal history background check system; and

(2) provide an annual summary to the National Task Force of the State's progress in complying with the criminal data entry provisions of the National Child Protection Act of 1993 which shall include information about the input of criminal data, child abuse crime information, domestic violence arrests and stay-away orders of protection.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—To carry out the provisions of this section, there are authorized to be appropriated a total of $5,100,000 for fiscal year 2003 and such sums as may be necessary for each of the fiscal years 2004, 2005, 2006, and 2007, sufficient to improve fingerprint technology units and hire data entry improvement personnel in each of the 50 States and the District of Columbia.

(2) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

By Mr. CORZINE (for himself, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 1870. A bill to amend the Clean Air Act to establish an inventory, registry, and information system of United States greenhouse gas emissions to inform the public and private sector concerning, and encourage voluntary reductions in, greenhouse emissions; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President, I rise today to introduce a bill that represents an important step towards the goal of addressing the threats posed by global climate change. I am pleased to be joined on this bill by Senator JEFFORDS and Senator LIEBERMAN. They are recognized environmental leaders in the Senate, and are long-standing, outspoken advocates for taking action to mitigate climate change. I appreciate their help in introducing this legislation today.

Climate change is an enormously complex issue in every aspect. Scientifically. Economically. Politically. But complexity is no excuse for inattention or inaction. Because the health and viability of the global ecosystems upon which we all depend are at stake. The time to act is now.

Earlier this year, the Intergovernmental Panel on Climate Change recently released its Third Assessment Report, and the science is increasingly clear and alarming. We know that human activities, primarily fossil fuel combustion, have raised the atmospheric concentration of carbon dioxide to the highest levels in the last 420,000 years. We know that the planet is warming, and that the balance of the scientific evidence suggests that most of the recent warming can be attributed to increased atmospheric greenhouse gas levels. We know that without concerted action by the U.S. and other countries, greenhouse gases will continue to increase.

Finally, we know that climate models have improved, and that these models predict warming under all scenarios that have been considered. Even the smallest warming predicted by current models, 2.5 degrees Fahrenheit over the next century, would represent the greatest rate of increase in global mean surface temperature in the last 10,000 years.

If these trends continue, the results may be devastating. People in my home State of New Jersey treasure their Jersey Shore. Like all coastal areas, the Jersey Shore is threatened by projected changes in sea levels due to climate change. I am concerned about this impact. And I am concerned about other climate change impacts across New Jersey, the country and the globe.

I believe we need to take reasonable steps today start dealing with this issue. And I think this bill will make an important incremental step.

The main provisions of the bill establish a system that would require companies to estimate and report their emissions of greenhouse gases, as well

as a place where companies can register greenhouse gas emissions reductions. In addition, the bill would require an annual report on U.S. greenhouse gas emissions. I'd like to go through each of these components in more detail.

First, the bill requires EPA to work with the Secretaries of Energy, Commerce and Agriculture, as well as the private sector and non-governmental organizations to establish a greenhouse gas emission information system. For the purposes of the bill, greenhouse gases are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. EPA is directed to establish threshold quantities for each of these gases. The threshold quantities will trigger the requirement for a company to report to the system, and are included to enable exclusion of most small businesses from the reporting requirements. Companies that emit more than a threshold quantity of each gas will be required to report their emissions on an annual basis to EPA. The requirements will be phased in, beginning with stationary source emissions in 2003. The following year, in 2004, companies subject to the reporting requirements will need to submit to EPA estimates of other types of greenhouse gas emissions, such as process emissions, fugitive emissions, mobile source emissions, forest product-sector emissions, and indirect emissions from heat and steam.

Just as important as the reporting system is the greenhouse gas registry established by the bill. The bill requires EPA to work with the same set of actors to establish this greenhouse gas registry, which will enable companies to register greenhouse gas reductions. Many companies are voluntarily implementing projects to reduce emissions or sequester carbon. The registry would establish a place for companies to be able to put these projects on public record in a consistent and reliable way.

Taken together, these provisions of the bill will accomplish several important goals. First, they will create a reliable record of the sources of greenhouse gas emissions within our economy. This will provide the public and private sector with important information that, if necessary, can be used to identify the most cost-effective ways to reduce greenhouse gas emissions.

Perhaps more importantly, these provisions will provide a powerful incentive for companies to continue to make voluntary greenhouse gas reductions. By requiring emissions reporting, and making that information available to the public, companies may face increased scrutiny with respect to their greenhouse gas emissions. But they will also have a place where they can register their greenhouse gas reductions project in a consistent and uniform way. This will enable companies to demonstrate the actions that they are taking to reduce their emissions, and will assist them in making the case for credits if a mandatory greenhouse gas emission reduction program is ever enacted.

Finally, the bill requires EPA to annually publish a greenhouse gas emissions inventory. This will be a national account of greenhouse gas emissions for our Nation, and will incorporate the information submitted to the greenhouse gas information system and registry. EPA has issued such a report for several years now, and this provision is intended to explicitly authorize and expand the scope of this report.

I know that there are technical challenges associated with measuring greenhouse gas emissions and reductions. But many advances have been made in recent years, often in a cooperative way, with industry, environmental groups and governments at the table. It's my intent that the systems and protocols developed under this bill conform to the best practices that have been and continue to be developed in this fashion.

I urge my colleagues to join with me in this legislation. Let's start taking reasonable steps to address the threat of climate change. 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. 1870

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 ''National Greenhouse Gas Emissions Inventory and Registry Act of 2001''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) human activities have caused rapid increases in atmospheric concentrations of carbon dioxide and other greenhouse gases in the last century;

(2) according to the Intergovernmental Panel on Climate Change and the National Research Council—

(A) the Earth has warmed in the last century; and

(B) the majority of the observed warming is attributable to human activities;

(3) despite the fact that many uncertainties in climate science remain, the potential impacts from human-induced climate change pose a substantial risk that should be managed in a responsible manner; and

(4) to begin to manage climate change risks, public and private entities will need a comprehensive, accurate inventory, registry, and information system of the sources and quantities of United States greenhouse gas emissions.

(b) PURPOSE.—The purpose of this Act is to establish a mandatory greenhouse gas inventory, registry, and information system that—

(1) is complete, consistent, transparent, and accurate;

(2) will create accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will encourage greenhouse gas emission reductions.

SEC. 3. GREENHOUSE GAS EMISSIONS.

The Clean Air Act (42 U.S.C. 1701 et seq.) is amended by adding at the end the following:

''TITLE VII—GREENHOUSE GAS EMISSIONS

''SEC. 701. DEFINITIONS.

''In this title:

''(1) COVERED ENTITY.—The term 'covered entity' means an entity that emits more than a threshold quantity of greenhouse gas emissions.

''(2) DIRECT EMISSIONS.—The term 'direct emissions' means greenhouse gas emissions from a source that is owned or controlled by an entity.

''(3) ENTITY.—The term 'entity' includes a firm, a corporation, an association, a partnership, and a Federal agency.

''(4) GREENHOUSE GAS.—The term 'greenhouse gas' means—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;

''(D) hydrofluorocarbons;

''(E) perfluorocarbons; and

''(F) sulfur hexafluoride.

''(5) GREENHOUSE GAS EMISSIONS.—The term 'greenhouse gas emissions' means emissions of a greenhouse gas, including—

''(A) stationary combustion source emissions, which are emitted as a result of combustion of fuels in stationary equipment such as boilers, furnaces, burners, turbines, heaters, incinerators, engines, flares, and other similar sources;

''(B) process emissions, which consist of emissions from chemical or physical processes other than combustion;

''(C) fugitive emissions, which consist of intentional and unintentional emissions from—

''(i) equipment leaks such as joints, seals, packing, and gaskets; and

''(ii) piles, pits, cooling towers, and other similar sources; and

''(D) mobile source emissions, which are emitted as a result of combustion of fuels in transportation equipment such as automobiles, trucks, trains, airplanes, and vessels.

''(6) GREENHOUSE GAS EMISSIONS RECORD.—The term 'greenhouse gas emissions record' means all of the historical greenhouse gas emissions and project reduction data submitted by an entity under this title, including any adjustments to such data under section 704(c).

''(7) GREENHOUSE GAS REPORT.—The term 'greenhouse gas report' means an annual list of the greenhouse gas emissions of an entity and the sources of those emissions.

''(8) INDIRECT EMISSIONS.—The term 'indirect emissions' means greenhouse gas emissions that are a consequence of the activities of an entity but that are emitted from sources owned or controlled by another entity.

''(9) NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—The term 'national greenhouse gas emissions information system' means the information system established under section 702(a).

''(10) NATIONAL GREENHOUSE GAS EMISSIONS INVENTORY.—The term 'national greenhouse gas emissions inventory' means the national inventory of greenhouse gas emissions established under section 705.

''(11) NATIONAL GREENHOUSE GAS REGISTRY.—The term 'national greenhouse gas registry' means the national greenhouse gas registry established under section 703(a).

''(12) PROJECT REDUCTION.—The term 'project reduction' means—

''(A) a greenhouse gas emission reduction achieved by carrying out a greenhouse gas emission reduction project; and

''(B) sequestration achieved by carrying out a sequestration project.

''(13) REPORTING ENTITY.—The term 'reporting entity' means an entity that reports to the Administrator under subsection (a) or (b) of section 704.

''(14) SEQUESTRATION.—The term 'sequestration' means the long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

''(15) THRESHOLD QUANTITY.—The term 'threshold quantity' means a threshold quantity for mandatory greenhouse gas reporting established by the Administrator under section 704(a)(3).

''(16) VERIFICATION.—The term 'verification' means the objective and independent assessment of whether a greenhouse gas report submitted by a reporting entity accurately reflects the greenhouse gas impact of the reporting entity.

''SEC. 702. NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.

''(a) ESTABLISHMENT.—In consultation with the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Energy, States, the private sector, and nongovernmental organizations concerned with establishing standards for reporting of greenhouse gas emissions, the Administrator shall establish and administer a national greenhouse gas emissions information system to collect information reported under section 704(a).

''(b) SUBMISSION TO CONGRESS OF DRAFT DESIGN.—Not later than 180 days after the date of enactment of this title, the Administrator shall submit to Congress a draft design of the national greenhouse gas emissions information system.

''(c) AVAILABILITY OF DATA TO THE PUBLIC.—The Administrator shall publish all information in the national greenhouse gas emissions information system through the website of the Environmental Protection Agency, except in any case in which publishing the information would reveal a trade secret or disclose information vital to national security.

''(d) RELATIONSHIP TO OTHER GREENHOUSE GAS REGISTRIES.—To the extent practicable, the Administrator shall ensure coordination between the national greenhouse gas emissions information system and existing and developing Federal, regional, and State greenhouse gas registries.

''(e) INTEGRATION WITH OTHER ENVIRONMENTAL INFORMATION.—To the extent practicable, the Administrator shall integrate information in the national greenhouse gas emissions information system with other environmental information managed by the Administrator.

''SEC. 703. NATIONAL GREENHOUSE GAS REGISTRY.

''(a) ESTABLISHMENT.—In consultation with the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Energy, States, the private sector, and nongovernmental organizations concerned with establishing standards for reporting of greenhouse gas emissions, the Administrator shall establish and administer a national greenhouse gas registry to collect information reported under section 704(b).

''(b) AVAILABILITY OF DATA TO THE PUBLIC.—The Administrator shall publish all information in the national greenhouse gas registry through the website of the Environmental Protection Agency, except in any case in which publishing the information would reveal a trade secret or disclose information vital to national security.

''(c) RELATIONSHIP TO OTHER GREENHOUSE GAS REGISTRIES.—To the maximum extent feasible and practicable, the Administrator shall ensure coordination between the national greenhouse gas registry and existing and developing Federal, regional, and State greenhouse gas registries.

''(d) INTEGRATION WITH OTHER ENVIRONMENTAL INFORMATION.—To the maximum extent practicable, the Administrator shall integrate all information in the national greenhouse gas registry with other environmental information collected by the Administrator.

''SEC. 704. REPORTING.

''(a) MANDATORY REPORTING TO NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—

''(1) INITIAL REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—Not later than April 30, 2003, in accordance with this paragraph and the regulations promulgated under section 706(e)(1), each covered entity shall submit to the Administrator, for inclusion in the national greenhouse gas emissions information system, the greenhouse gas report of the covered entity with respect to—

''(i) calendar year 2002; and

''(ii) each greenhouse gas emitted by the covered entity in an amount that exceeds the applicable threshold quantity.

''(B) REQUIRED ELEMENTS.—Each greenhouse gas report submitted under subparagraph (A)—

''(i) shall include estimates of direct stationary combustion source emissions;

''(ii) shall express greenhouse gas emissions in metric tons of the carbon dioxide equivalent of each greenhouse gas emitted;

''(iii) shall specify the sources of greenhouse gas emissions that are included in the greenhouse gas report;

''(iv) shall be reported on an entity-wide basis and on a facility-wide basis; and

''(v) to the maximum extent practicable, shall be reported electronically to the Administrator in such form as the Administrator may require.

''(C) METHOD OF REPORTING OF ENTITY-WIDE EMISSIONS.—Under subparagraph (B)(iv), entity-wide emissions shall be reported on the bases of financial control and equity share in a manner consistent with the financial reporting practices of the covered entity.

''(2) FINAL REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—Not later than April 30, 2004, and each April 30 thereafter (except as provided in subparagraph (B)(vii)), in accordance with this paragraph and the regulations promulgated under section 706(e)(2), each covered entity shall submit to the Administrator the greenhouse gas report of the covered entity with respect to—

''(i) the preceding calendar year; and

''(ii) each greenhouse gas emitted by the covered entity in an amount that exceeds the applicable threshold quantity.

''(B) REQUIRED ELEMENTS.—Each greenhouse gas report submitted under subparagraph (A) shall include—

''(i) the required elements specified in paragraph (1);

''(ii) estimates of indirect emissions from imported electricity, heat, and steam;

''(iii) estimates of process emissions described in section 701(5)(B);

''(iv) estimates of fugitive emissions described in section 701(5)(C);

''(v) estimates of mobile source emissions described in section 701(5)(D), in such form as the Administrator may require;

''(vi) in the case of a covered entity that is a forest product entity, estimates of direct stationary source emissions, including emissions resulting from combustion of biomass;

''(vii) in the case of a covered entity that owns more than 250,000 acres of timberland, estimates, by State, of the timber and carbon stocks of the covered entity, which estimates shall be updated every 5 years; and

''(viii) a description of any adjustments to the greenhouse gas emissions record of the covered entity under subsection (c).

''(3) ESTABLISHMENT OF THRESHOLD QUANTITIES.—For the purpose of reporting under this subsection, the Administrator shall establish threshold quantities of emissions for each combination of a source and a greenhouse gas that is subject to the mandatory reporting requirements under this subsection.

''(b) VOLUNTARY REPORTING TO NATIONAL GREENHOUSE GAS REGISTRY.—

''(1) IN GENERAL.—Not later than April 30, 2004, and each April 30 thereafter, in accordance with this subsection and the regulations promulgated under section 706(f), an entity may voluntarily report to the Administrator, for inclusion in the national greenhouse gas registry, with respect to the preceding calendar year and any greenhouse gas emitted by the entity—

''(A) project reductions;

''(B) transfers of project reductions to and from any other entity;

''(C) project reductions and transfers of project reductions outside the United States;

''(D) indirect emissions that are not required to be reported under subsection (a)(2)(B)(ii) (such as product transport, waste disposal, product substitution, travel, and employee commuting); and

''(E) product use phase emissions.

''(2) TYPES OF ACTIVITIES.—Under paragraph (1), an entity may report activities that reduce greenhouse gas emissions or sequester a greenhouse gas, including—

''(A) fuel switching;

''(B) energy efficiency improvements;

''(C) use of renewable energy;

''(D) use of combined heat and power systems;

''(E) management of cropland, grassland, and grazing land;

''(F) forestry activities that increase carbon stocks;

''(G) carbon capture and storage;

''(H) methane recovery; and

''(I) carbon offset investments.

''(c) ADJUSTMENT FACTORS.—

''(1) IN GENERAL.—Each reporting entity shall adjust the greenhouse gas emissions record of the reporting entity in accordance with this subsection.

''(2) SIGNIFICANT STRUCTURAL CHANGES.—

''(A) IN GENERAL.—A reporting entity that experiences a significant structural change in the organization of the reporting entity (such as a merger, major acquisition, or divestiture) shall adjust its greenhouse gas emissions record for preceding years so as to maintain year-to-year comparability.

''(B) MID-YEAR CHANGES.—In the case of a reporting entity that experiences a significant structural change described in subparagraph (A) during the middle of a year, the greenhouse gas emissions record of the reporting entity for preceding years shall be adjusted on a pro-rata basis.

''(3) CALCULATION CHANGES AND ERRORS.—The greenhouse gas emissions record of a reporting entity for preceding years shall be adjusted for—

''(A) changes in calculation methodologies; or

''(B) errors that significantly affect the quantity of greenhouse gases in the greenhouse gas emissions record.

''(4) ORGANIZATIONAL GROWTH OR DECLINE.—The greenhouse gas emissions record of a reporting entity for preceding years shall not be adjusted for any organizational growth or decline of the reporting entity such as—

''(A) an increase or decrease in production output;

''(B) a change in product mix;

''(C) a plant closure; and

''(D) the opening of a new plant.

''(5) EXPLANATIONS OF ADJUSTMENTS.—A reporting entity shall explain, in a statement included in the greenhouse gas report of the reporting entity for a year—

''(A) any significant adjustment in the greenhouse gas emissions record of the reporting entity; and

''(B) any significant change between the greenhouse gas emissions record for the preceding year and the greenhouse gas emissions reported for the current year.

''(d) QUANTIFICATION AND VERIFICATION PROTOCOLS AND TOOLS.—

''(1) IN GENERAL.—The Administrator and the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall jointly work with the States, the private sector, and nongovernmental organizations to develop—

''(A) protocols for quantification and verification of greenhouse gas emissions;

''(B) electronic methods for quantification and reporting of greenhouse gas emissions; and

''(C) greenhouse gas accounting and reporting standards.

''(2) BEST PRACTICES.—The protocols and methods developed under paragraph (1) shall conform, to the maximum extent practicable, to the best practice protocols that have the greatest support of experts in the field.

''(3) INCORPORATION INTO REGULATIONS.—The Administrator shall incorporate the protocols developed under paragraph (1)(A) into the regulations promulgated under section 706.

''(4) OUTREACH PROGRAM.—The Administrator, the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall jointly conduct an outreach program to provide information to all reporting entities and the public on the protocols and methods developed under this subsection.

''(e) VERIFICATION.—

''(1) PROVISION OF INFORMATION BY REPORTING ENTITIES.—Each reporting entity shall provide information sufficient for the Administrator to verify, in accordance with greenhouse gas accounting and reporting standards developed under subsection (d)(1)(C), that the greenhouse gas report of the reporting entity—

''(A) has been accurately reported; and

''(B) in the case of each project reduction, represents actual reductions in greenhouse gas emissions or actual increases in net sequestration, as applicable.

''(2) INDEPENDENT THIRD-PARTY VERIFICATION.—A reporting entity may—

''(A) obtain independent third-party verification; and

''(B) present the results of the third-party verification to the Administrator for consideration by the Administrator in carrying out paragraph (1).

''(f) ENFORCEMENT.—The Administrator may bring a civil action in United States district court against a covered entity that fails to comply with subsection (a), or a regulation promulgated under section 706(e), to impose a civil penalty of not more than $25,000 for each day that the failure to comply continues.

''SEC. 705. NATIONAL GREENHOUSE GAS EMISSIONS INVENTORY.

''Not later than April 30, 2002, and each April 30 thereafter, the Administrator shall publish a national greenhouse gas emissions inventory that includes—

''(1) comprehensive estimates of the quantity of United States greenhouse gas emissions for the second preceding calendar year, including—

''(A) for each greenhouse gas, an estimate of the quantity of emissions contributed by each key source category;

''(B) a detailed analysis of trends in the quantity, composition, and sources of United States greenhouse gas emissions; and

''(C) a detailed explanation of the methodology used in developing the national greenhouse gas emissions inventory; and

''(2) a detailed analysis of the information reported to the national greenhouse gas emissions information system and the national greenhouse gas registry.

''SEC. 706. REGULATIONS.

''(a) IN GENERAL.—The Administrator may promulgate such regulations as are necessary to carry out this title.

''(b) BEST PRACTICES.—In developing regulations under this section, the Administrator shall seek to leverage leading protocols for the measurement, accounting, reporting, and verification of greenhouse gas emissions.

''(c) NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—Not later than January 31, 2003, the Administrator shall promulgate such regulations as are necessary to establish the national greenhouse gas emissions information system.

''(d) NATIONAL GREENHOUSE GAS REGISTRY.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to establish the national greenhouse gas registry.

''(e) MANDATORY REPORTING REQUIREMENTS.—

''(1) INITIAL REPORTING REQUIREMENTS.—Not later than January 31, 2003, the Administrator shall promulgate such regulations as are necessary to implement the initial mandatory reporting requirements under section 704(a)(1).

''(2) FINAL REPORTING REQUIREMENTS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to implement the final mandatory reporting requirements under section 704(a)(2).

''(f) VOLUNTARY REPORTING PROVISIONS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations and issue such guidance as are necessary to implement the voluntary reporting provisions under section 704(b).

''(g) ADJUSTMENT FACTORS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are necessary to implement the adjustment factors under section 704(c).''.

Mr. JEFFORDS. Mr. President, we are now near the end of the first session of the 107th Congress. It has been an exceedingly long and difficult year. There have been many changes, surprises and tragedies.

One politically significant event that particularly dismayed me was the President's modification of his campaign pledge to reduce emissions of four major pollutants, sulfur dioxide, nitrogen oxides, mercury and carbon dioxide, emitted by power plants. In March, he wrote to several Senators telling them he would no longer support mandatory emissions reductions for carbon dioxide, an important greenhouse gas. This struck me as a return to a 1950s-style energy and environmental policy.

On a more optimistic role, however, that reversal and the administration's unilateral withdrawal and disengagement from the international negotiations to implement the United Nations Framework Convention on Climate Change and the Kyoto Protocol has created more interest and activity on this matter than ever on Capitol Hill and in the media.

Now, many Members are asking themselves whether Congress should just proceed without the Administration. In fact, the Daschle-Bingaman energy legislation contains a significant climate change title that does just that. This subject will contain to receive a great deal of attention in the Environment and Public Works Committee and elsewhere as we try to implement through statute our existing national commitment to reduce greenhouse gas emissions to 1990 levels.

Today, I am joining with Senators CORZINE and LIEBERMAN in introducing a bill to amend the Clean Air Act to require reporting of greenhouse gas emissions from major sources and to create a voluntary registry for those sources to document their emissions reduction efforts. This new system will be maintained and operated by the Environmental Protection Agency, which has the greatest Federal agency experience and capability in monitoring enforcing and tracking air emissions. The information generated by this system will be of great assistance in developing a national trading system in carbon emission credits. The U.S. is a global leader in the creation and operation of such systems and must not lag behind doors in the international community.

We have been waiting some time for the Administration to make known the results of its climate change policy review and for a constructive multi-pollutant legislative proposal. There is no question that the terrible events of September 11, have had a devastating effect on our citizenry and the government. But, we are a great nation and the Federal Government must be capable of working on a variety of domestic and international fronts, even in the face of great adversity. There are few, if any, environmental issues more compelling than global warming and its effects.

As many Senators may recall, Congress and the previous Bush Administration worked together and were very productive during the Gulf War on many pieces of environmental legislation, not the least of which was the Clean Air Act Amendments of 1990. That was a different time, but that situation demonstrates that given the right level of attention and resources, we can accomplish a great deal working together even under stressful circumstances.

The Administration's unilateral approach to this important subject is puzzling. The U.S. is responsible for approximately 25 percent of the total carbon loading to the atmosphere. This man-made pollution is leading to a warming of the entire planet through the greenhouse effect, according to the National Academy of Sciences. Surely, we should do our share to reduce these emissions to protect our environmental and economy, and our global neighbors. That is the most certain way to protect our long-term interests and reduce the impacts of proceeding with business as usual.

We have asked a great deal of our friends across the globe as part of our

response to terrorism, particularly of our friends in the European Union. We must not forget that they too have an agenda for the international community and that agenda includes concerted action on climate change. Ignoring that agenda for too long may create unnecessary trade and tariff barrier problems for U.S. goods and services. Already, the pending adoption of the Kyoto Protocol in European Union countries and elsewhere poses, complex accounting and trade issues for U.S. multi-nationals operating in Annex I countries.

The Administration's silence on this clearly growing problem is also puzzling. The National Oceanic and Atmospheric and the World Meteorological Organization say that 2001 will be the second warmest year on record since records have been kept in the mid-1800s. Recently, the Washington Post reported on the New England Regional Assessment of the Potential Consequence of Climate Variability and Change.

The Assessment, which is one of the many regional assessments being conducted pursuant to the Global Change Research Act of 1990, found that the Northeast's climate is likely to become hotter and more flood-prone. The region may see a 6–9 degrees fahrenheit overall temperature increase over the next 100 hundreds due to the global warming caused by greenhouse gas emissions. This would cause sugar maples to disappear from Vermont forests, threaten coastal areas with rising sea levels, exacerbate existing air pollution problems and harm cold-weather-dependent industries like skiing.

There are varying claims about the economic effects related to global warming and climate change. Effects that will occur beyond the normal economic forecasting period are difficult to determine. But, some studies have suggested that when a doubling of atmospheric CO_2 occurs, sometime in the next 50–70 years according to most models, the cost to the U.S. economy could be between 0.3 percent–6 percent of GDP in 2000 dollars. While the nature of the exact impacts of climate change on forestry, construction, hydropower, and agriculture are disputed, most sectors will see losses, according to studies for the U.S. Environmental Protection Agency, Pennsylvania Academy of Science, Oak Ridge National Laboratory, Massachusetts Institute of Technology, Yale University, Pew Center on Global Climate Change, and the Institute for International Economics.

These effects can be lessened by purposeful and strong leadership in the Congress and the White House. We have the technological ability to revolutionize our use of fossil fuels through efficiency and process changes, and to radically increase our production of renewable energy in all forms. These steps can dramatically and cost-effectively reduce carbon emissions in the near term, according to studies done by the Department of Energy and various think-tanks. However, we must do something soon to stimulate that revolution.

Providing information on waste generation and release into the environment has been a great success of the Toxic Release Inventory. Educating the public and the market about wasteful behavior has stimulated major emissions reductions. The bill we are introducing today should be similarly successful in promoting innovation and efficiency in all major carbon emitting sectors, in addition to preparing the appropriate infrastructure for a national carbon credit trading system.

Early in the next session, the Senate Environment and Public Works Committee will mark up S. 556, the Clean Power Act, which requires reductions in greenhouse gas emission from the power generating sector. That sector's emissions have risen approximately 26 percent above 1990 levels and are expected to grow 1.8 percent annually without some Federal action. This is well beyond our international treaty commitments on a sector basis. The majority of those facilities are already required to report their carbon dioxide emissions to EPA.

I am hopeful that we can proceed with a tri-partisan, consensual markup of the Clean Power Act. But, two elements may preclude our ability to achieve some agreement. First, the Administration may go forward with proposals to modify the New Source Review, NSR, program. This possibility gravely concerns me and other Members of the Committee, given the lack of transparency in the Administration's proceedings on the pending NSR enforcement actions and the ''consistency'' review by the Department of Justice. And, second, perhaps more importantly, there is a distinct lack of constructive engagement with the Committee on a multi-pollutant bill or any clear progress on an Administration proposal.

Next year promises to be very busy in the energy and environmental policy arena. We cannot afford to simply recreate the debates that occurred during the Energy Policy Act of 1992. We know the world to be a much different place now and fraught with greater and more complex dangers like global warming. It would be irresponsible in the extreme for Congress or the White House to take actions that increase, rather than decrease, the likelihood of those dangers.

I look forward to working with the Administration and my colleagues on a variety of actions to make progress in adapting to the climate change we have already caused and on reducing greenhouse gas emissions to prevent greater future damage that our great-grandchildren will have to face.

I ask unanimous consent to print the article to which I referred in the RECORD.

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

[From the Washington Post, Dec. 17, 2001]

NORTHEAST SEEN GETTING BALMIER

(By Michael Powell)

NEW YORK.—New England's maple trees stop producing sap. The Long Island and Cape Cod beaches shrink and shift, and disappear in places. Cases of heatstroke triple.

And every 10 years or so, a winter storm floods portions of Lower Manhattan, Jersey city and Coney Island with seawater.

The Northeast of recent historical memory could disappear this century, replaced by a hotter and more flood-prone region where New York could have the climate of Miami and Boston could become as sticky as Atlanta, according to the first comprehensive federal studies of the possible effects of global warming on the Northeast.

''In the most optimistic projection, we will end up with a six- to nine-degree increase in temperature,'' said George Hurtt, a University of New Hampshire scientist and co-author of the study on the New England region. ''That's the greatest increase in temperature at any time since the last Ice Age.''

Commissioned by Congress, the separate reports on New England and the New York region explore how global warming could affect the coastline, economy and public health of the Northeast. The language is often technical, the projections reliant on middle-of-the-road and sometimes contradictory predictive models.

But the predications are arresting.

New England, where the regional character was forged by cold and long, dark winters, could face a balmy future that within 30 to 40 years could result in increased crop production but also destroy prominent native tree species.

''The brilliant reds, oranges and yellows of the maples, birches and beeches may be replaced by the browns and dull greens of oaks,'' the New England report concludes. Within 20 years, it says, ''the changes in climate could potentially extirpate the sugar maple industry in New England.''

The reports' origins date to 1990, when Congress passed the Global Change Research Act. Seven years later, the Environmental Protection Agency appointed 16 regional panels to examine global warming, and how the nation might adapt. These Northeast reports, completed about two months ago, are among the last to be released. (The mid-Atlantic report, which includes Washington, was completed a year go.)

The scientists on the panels employed conventional assumptions, such as an annual 1 percent increase in greenhouse gases in the atmosphere. They conclude that global warming is already occurring, noting that, on average, the Northeast became two degrees warmer in the past century. And they say that the temperature rise in the 21st century ''will be significantly larger than in the 20th century.'' One widely used climate model cited in the report predicted a six-degree increase, the other 10 degrees.

The Environmental Protection Agency summarizes the findings on its Web site.

''Changing regional climate could alter forests, crop yields, and water supplies,'' the EPA states. ''It could also threaten human health, and harm birds, fish, and many types of ecosystems.''

Yale economist Robert O. Mendelsohn is more skeptical. He agrees that mild global warming seems likely to continue—but argues that a slightly hotter climate will make the U.S. economy in general, and the Northeast in particular, more rather than less productive. A greater risk comes from spending billions of dollars to slow emissions of greenhouse gases.

''Even in the extreme scenarios, the northern United States benefits from global

warming,'' said Mendelsohn, editor of the forthcoming ''Global Warming and the American Economy.'' ''To have New England lead the battle against global warming would be deeply ironic, because it will be beneficial to our climate and economy.''

The scientists on the Northeastern panels estimated that Americans have a grace period of a decade or two, during which the nation can adapt before global warming accelerates.

''We will face an increasingly hazardous local environment in this century,'' said William Solecki, a professor of geography at Montclair State University in New Jersey and a co-author of the climate change report covering the New York metropolitan region. ''We're in transition right now to something entirely new and uncertain.''

HEAT ISLAND

New York City, the nation's densest urban center, is armored with heat-retaining concrete and stone, and so its median temperature hovers five to six degrees above the regional norm. The city, the New York report predicts, will grow warmer still. Within 70 years, New York will have as many 90-degree days a year as Miami does now.

If temperatures and ozone levels rise, the report says, the poor, the elderly and the young—especially those in crowded, poorly ventilated buildings—could suffer more heatstroke and asthma.

But such problems might have relatively inexpensive solutions, from subsidizing the purchase of air conditioners to planting trees and painting roofs light colors to reflect back heat.

''The experience of southern cities is that you can cut deaths and adapt rather easily,'' said Patrick Kinney of the Mailman School of Public Health at Columbia University, who authored a section of the report.

Rising ocean waters present a more complicated threat. The seas around New York have risen 15 to 18 inches in the past century, and scientists forecast that by 2050, waters could rise an additional 10 to 20 inches.

By 2080, storms with 25-foot surges could hit New York every three or four years, inundating the Hudson River tunnels and flooding the edges of the financial district, causing billions of dollars in damage.

''This clearly is untenable,'' said Klaus Jacob, a senior research scientist with Columbia University's Lamont-Doherty Earth Observatory, who worked on the New York report and is an expert on disaster and urban infrastructure. ''A world-class city cannot afford to be exposed to such a threat so often.''

Jacob recommends constructing dikes and reinforced seawalls in Lower Manhattan, and new construction standards for the lower floors of offices.

Sea-level rise could reshape the entire Northeast coastline, turning the summer retreats of the Hamptons and Cape Cod into landscapes defined by dikes and houses on stilts. Should this come to pass, government would have to decide whether to allow nature to have its way, or to spend vast sums of money to replenish beaches and dunes. Complicating the issue is the fact that some wealthy coastal communities exclude nonresident taxpayers from their beaches.

''Multimillionaires already are armoring their property with sandbags, but they can't do it on their own,'' said Vivian Gornitz of Columbia's Center for Climate Systems Research, author of the report's section on sea rise. ''You would be asking taxpayers to pay for restoring beaches they can never walk on, and they might demand access.''

MILD NEW ENGLAND

Farther north, global warming could change flora and fauna, and perhaps the culture itself.

Compared with a century ago, the report notes, ice melts a week earlier on northern lakes. Ticks carrying Lyme disease range north of what scientists once assumed was their natural habitat. Moist, warm winters have led to large populations of mosquitoes, with an accompanying risk of encephalitis and even malaria.

''The present warming trend has led to another growing health problem,'' the report states, ''in the incidence of red tides, fish kills and bacterial contamination.''

Hot, dry summer months, the report continues, ''are ideal for converting automobile exhaust . . . into ozone.'' Because winds flow west to east, New England already serves as something of a tailpipe for the nation. The report notes that a study of ozone pollution and lung capacity found that hikers on Mount Washington, New Hampshire's highest peak, ended their treks in worse condition than when they started.

These findings are not definitive. Rising temperatures could exacerbate the effects of harmful ozone—but anti-pollution laws are also cutting emissions.

''There is a little tendency to be alarmist in global warming studies,'' Kinney said. ''We could keep ozone in check.''

A warmer New England could help some economic sectors. As oak and hickory replace maples and birch, so commercial forestry might grow. Shorter winters could translate into longer growing seasons, lower fuel bills and less money spent on frost-heaved roads. The foliage and ski industries would suffer, but lingering autumns could bring more tourists and dollars to the coastal towns of Maine and Massachusetts.

''People complain that we'll lose the sugar maple, but 100 years ago, New England was 80 percent farmland,'' said Yale economist Mendelsohn. ''In fact, an entire landscape has shifted in the past 100 years, and most people have no idea it was once so different.''

Perhaps—though cold has defined New England for almost 400 years, and some historians caution that the cultural shift could prove disorienting. The region reflects its climate; the literature is austere, the houses stout. For the 19th century naturalists of the region, a clammy southern heat represented moral slackness.

''Surviving winter has become our self-selecting filter,'' said Vermont archivist Gregory Sanford. ''What will we brag about if we live in a temperate zone and go around in Hawaiian shirts and sandals?''

By Mr. ROCKEFELLER:

S. 1871. A bill to direct the Secretary of Transportation to conduct a rail transportation security risk assessment, and for other purposes; to the Committee on Commerce, Science, and Transportation

Mr. ROCKEFELLER. Mr. President, it is my pleasure today to introduce the Safe Rails Act of 2001. This bill will protect the lives of millions of Americans by providing our Nation's freight railroads and hazardous materials shippers with the ability to enhance the security of hazardous materials shipped on the Nation's freight rail network.

The Safe Rails Act will require the Department of Transportation to focus its attention on the significant potential for harm to human health and public safety posed by terrorist attacks on our Nation's freight rail infrastructure. In performing the risk assessment called for in the bill, the Secretary of Transportation will be able to make use of the expertise of the various companies and industries involved in the transportation of hazardous materials. Upon completion of the assessment, the Secretary will administer a 2-year Rail Security Fund to assist railroads and hazardous materials shippers in paying the extraordinary costs associated with their post-September 11 activities to secure rail infrastructure and rolling stock.

Among the painful lessons we have learned from the sad and alarming events of the past three months, one of the most obvious is that security measures for much of our Nation's transportation infrastructure needs immediate improvement. Americans had, for the most part, taken for granted that life in the United States was safe from the senseless violence that occurs all too often elsewhere on the planet. When terrorists used hijacked airlines as missiles against our people, or transformed the mail into a means of spreading illness and death, we awoke in this country to the potential for harm that exists in the misuse of things we depend upon every day.

We depend on few things like we depend on our transportation system. I hope my colleagues in the Senate will agree with me that to adequately protect our homeland security, it is absolutely necessary that Congress, the administration, and the various transportation industries cooperate on a comprehensive evaluation and enhancement of transportation security. I believe we must act soon, and not wait for our ocean-going vessels, our long-haul trucks, or our passenger rail system to be used as tools of terrorist aggression against our fellow citizens.

I have offered this legislation today because the threat to Americans from a terrorist act against a freight railroad carrying hazardous materials may be greater than the threats against all of those other modes combined. Several analyses undertaken even before September 11 point to the chemical industry and the railroads that carry the bulk of its products as likely targets of terrorism. Our economy, and indeed, our public health, depend on the movement of these chemicals. In the days immediately after September 11, for example, a disruption of rail traffic resulted in some major cities having only a few days' supply of water-purifying chlorine at their disposal. It is quite obvious, I believe, that we must safeguard movement of these life-saving, although potentially dangerous, chemicals.

There is legislation before the Senate that would protect the 21 million passengers Amtrak carries every year. I would encourage all my colleagues to support this common-sense legislation. Before we enact that legislation and think we have completed our job, I would just say to my colleagues that the passenger rail traffic in this Nation covers only about one-sixth of the 140,000 miles in the country's freight rail network.

The freight rail network, which passes through or near virtually every

small town and large city in the country, carries more than 1.7 million carloads, many millions of tons, of chemicals and other hazardous materials each year. More than 50,000 carloads of ''poison by inhalation'' chemicals, including chlorine, are transported within a few miles of a huge percentage of our population. It is not my purpose to alarm my colleagues or the public at large. The simple fact is, however, the Safe Rails Act will protect millions of Americans living or working in proximity to the facilities manufacturing these hazardous materials, or the trains carrying them.

Very briefly, the Safe Rails Act would require the Secretary of Transportation to conduct a comprehensive analysis of the security risks on our entire rail system, with special emphasis given to a security needs assessment for the transportation of hazardous materials.

The bill creates a Rail Security Fund, to be administered by the Secretary, to reimburse or defray the costs of increased or new security measures taken by railroads, hazardous materials shippers, or tank car owners, in the wake of the terrorist attacks on September 11. In conducting the required assessments, the Secretary will consult with and may use materials prepared by the railroad, chemical, and tank car leasing industries, as well as any relevant security analyses or assessments prepared by Federal or State law enforcement, public safety, or regulatory agencies.

The Secretary will develop criteria to determine the appropriateness of full or partial reimbursement for various security-related activities. The Secretary may consider, but will not be limited to, using the Fund to help pay for costs incurred due to the following security-related activities: unanticipated rerouting or switching of trains or cargoes, and the express movement of hazardous materials to address security risks; hiring additional manpower required to increase security of the entire rail network, including rail cars on leased track; the purchase of equipment or improved training to enhance emergency response in hazardous materials transportation incidents; improvements in critical communications essential for rail operations and security, including: Development and deployment of global positioning tracking systems on all tank cars transporting high hazard materials; and development of secure network to provide hazardous materials shippers and tank car owners information regarding credible threats to shipments of their products or rolling stock; investment in the physical hardening of critical railroad infrastructure to enable it to withstand terrorist attacks; tank car modifications, or storage of additional tank cars in excess of the number normally stored on-site at shippers' facilities, as mandated by federal regulators; research and development supporting enhanced safety and security of hazardous materials transportation along the freight rail network, including: technology for sealing rail cars; techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; systems to enhance rail car security on shipper property.

Mr. President, the Safe Rails Act is crucially important legislation for the safety and security of our country, and for the protection of human health all along our Nation's rail network. I thank the chairman of the Commerce Committee for his commitment to mark this bill up early next year. I strongly urge the leadership of the Senate to schedule consideration of this legislation early in the next session of the 107th Congress, and I encourage my colleagues to support its passage.

By Mr. SESSIONS (for himself and Mr. HATCH):

S. 1874. A bill to reduce the disparity in punishment between crack and powder cocaine offenses, to more broadly focus the punishment for drug offenders on the seriousness of the offense and the culpability of the offender, and for other purposes; to the Committee on the Judiciary.

Mr. SESSIONS. Mr. President, I send to the desk a bill entitled the Drug Sentencing Reform Act of 2001. This bill provides a measured and balanced approach to improving the statutory and guidelines system that governs the sentencing of drug offenders.

This bill makes two important changes to our Federal sentencing system for drug offenders: First, it reduces the disparity in sentences for crack and powder cocaine from a ratio of 100-to-1 to 20-to-1. It does so by reducing the penalty for crack and increasing the penalty for powder cocaine.

Second, the bill shifts some of the sentencing emphasis from drug quantity to the nature of the criminal conduct, the degree of the defendant's criminality. The bill increases penalties for the worst drug offenders that use violence and employ women and children as couriers to traffic drugs. The bill decreases mandatory penalties on those who play only a minimal role in a drug trafficking offense, such as a girlfriend or child of a drug dealer who receives little compensation.

In short, this bill will make measured and balanced improvements in the current sentencing system to ensure a more just outcome, tougher sentences on the worst and most violent drug offenders and lighter sentences on lower-level, nonviolent offenders.

To understand the changes that I propose, it is necessary to review how we got to the present system.

Prior to the promulgation of the Sentencing Guidelines in 1984, judges in the Federal court system had very broad discretion to sentence drug offenders. Because judges had different views on sentencing, one defendant who committed a crime could receive parole while another defendant guilty of the exact same criminal conduct could receive literally 20 years in prison. See, e.g., United States Sentencing Commission, Guidelines Manual 2 (Nov. 2000).

Further, because of the existence of the parole system, convicts generally served only one-third of the sentence announced by the judge. Id. There was no truth in sentencing. Thus, the old sentencing system lacked uniformity, honesty, and certainty.

In 1984, a bipartisan Congress enacted and President Reagan signed the Sentencing Reform Act as part of the Comprehensive Crime Control Act, Pub. L. No. 98–473, Title II, 98 Stat. 2019 (1984). The Sentencing Reform Act created the Sentencing Commission and instructed it to promulgate sentencing guidelines that would provide more effective, more uniform, and more fair sentences. See generally United States Sentencing Commission, Guidelines Manual 2 (Nov. 2000). As part of this reform, Congress abolished the parole system and substantially reduced good behavior adjustments. Id. at 1.

The Sentencing Commission went to work in studying empirical data on average sentences imposed for various crimes prior to the Sentencing Reform Act. See United States Sentencing Commission, Guidelines Manual 9–10 (Nov. 2000). It then made adjustments for acceptance of responsibility and provision of substantial assistance to the government. Id. at 10.

On April 13, 1987, the Sentencing Commission submitted its first set of Sentencing Guidelines to Congress. See United States Sentencing Commission, Guidelines Manual 1 (Nov. 2000). After the prescribed period, the Guidelines took effect on November 1, 1987, and applied to all offenses committed on or after that date. Id. at 1.

In applying the Guidelines to a particular case, a judge must generally:

1. Determine the base offense level for the offense of conviction;
2. Apply applicable adjustments for the type of victim, the defendant's role in the offense, and whether the defendant obstructed justice;
3. Determine the defendant's criminal history category; and
4. Determine the guideline range based on the defendant's offense level and criminal history category. See U.S.S.G. §1B1.1 (2000).

After all the factors are considered, the judge is required to sentence within a narrow range.

Thus, the promulgation of the Sentencing Guidelines and the repeal of the parole system promoted uniformity, honesty, and certainty in sentencing.

In 1989, in *Mistretta* v. *United States*, 488 U.S. 361 (1989), the Supreme Court upheld the constitutionality of the Sentencing Guidelines. Thus, Federal prosecutors, criminal defense attorneys, and Federal judges have been applying the Sentencing Guidelines for over a decade.

In setting the guideline ranges for particular offenses, the Sentencing Commission has to take into account any minimum or maximum sentences established by Congress.

In 1986, Senator Dole introduced on behalf of the Reagan administration the Drug-Free Federal Workplace Act of 1986. S. 2849, 99th Cong. 2d Sess. §502 (1986). See United States Sentencing Commission, Special Report to Congress: Cocaine and Federal Sentencing Policy 117 (1995). That bill proposed several mandatory minimum sentences for drug trafficking offenses based on the quantity of the drug involved in the offense.

Under the bill, 500 grams of powder cocaine would have triggered a 5-year mandatory minimum, while it would have taken 25 grams of crack to trigger the same 5-year mandatory minimum. This was a 20-to-1 ratio of powder to crack.

Ultimately, Congress passed and President Reagan signed the Omnibus Anti-Drug Abuse Act of 1986 that set tough mandatory minimum sentences for various quantities of illegal drugs. Pub. L. No. 99–570, 100 Stat. 3207 (1986). With respect to cocaine, the law was amended to provide that a 5-year mandatory minimum sentence would be triggered by trafficking just 5 grams of crack cocaine or by trafficking 500 grams of powder—a 100-to-1 ratio. 21 U.S.C. §841(b)(1)(B)(ii) & (iii). A 10-year mandatory minimum sentence was imposed for trafficking 50 grams of crack or 5 kilograms of powder cocaine, again a 100-to-1 ratio. 18 U.S.C. §841(b)(a)(A)(ii) & (iii).

Congress, and those of us in the law enforcement field at the time believed that there was substantial justification for a large differential between crack and powder cocaine. Because crack was cheap, addictive, and believed to serve as a catalyst for crime, Congress wanted to keep it off the streets and out of poor neighborhoods, which were largely minority neighborhoods. Congress sought to accomplish this with stiff penalties. See United States Sentencing Commission, Special Report to Congress: Cocaine and Federal Sentencing Policy 115–21 (1995) (discussing legislative reasons for crack and powder cocaine sentences). Congressman CHARLES RANGEL of New York, stated in 1986:

> We all know that crack is the newest and most insidious addition to the drug culture. It is cheaper than cocaine, and more addictive. Young people who experiment with crack often become habitual users because of its highly concentrated narcotic effect. They become addicts before they know what is happening.—132 Cong. Rec. H3515–02 (1986) statement of Rep. RANGEL).

Congressman RANGEL, who chaired the Select Committee on Narcotics Abuse and Control, called drug dealers

> the entrepreneurs of dealing with the sale of death on the installment plan. (They) have now, in a very sophisticated way, packaged crack which allows our younger people for smaller amounts of money to become addicted.—''Crack,'' Cocaine Derivative, Called Serious Health Threat, Houston Chronicle, July 16, 1986.

Senator Lawton Chiles of Florida was one of the leaders in the Senate on the fight against crack. He stated:

> The whole Nation now knows about crack cocaine. They know it can be bought for the price of a cassette tape, and make people into slaves. It can turn promising young people into robbers and thieves, stealing anything they can to get the money to feed their habit.—132 Cong. Rec. S 26446, 26447 (1986) (statement of Sen. Chiles).

Senator Chiles also stated with regard to the bill imposing the heavy penalties on crack,

> The Senate bill contained the Democratic three-tiered penalty system which will impose mandatory sentences and large fines against major drug traffickers and kingpins. . . . I am very pleased that the Senate bill recognizes crack as a distinct and separate drug from [powder] cocaine. . . .—132 Cong. Rec. S14270–01 (1986) (statement of Sen. Chiles).

A principal reason for the 1986 crack law was to keep crack from spreading across America and to keep it out of our neighborhoods, especially minority neighborhoods.

Congress continued to follow this line of reasoning in 1988, when it passed and President Reagan signed into law the Anti-Drug Abuse Act. Pub. L. No. 100–690, 102 Stat. 4181 (1988). In addition to the mandatory minimum penalties enacted in 1986 for the trafficking in crack cocaine and other drugs, this act added a mandatory minimum sentence of 5 years for the simple possession of crack cocaine. 21 U.S.C. §844.

Mandatory minimum sentences at the Federal and State levels for various crimes have generally been successful. They have reflected the seriousness with which we as a society take certain crimes and they have reduced crime by keeping recidivist criminals off the streets for longer periods of time. A 1982 Rand study reported that some repeat offenders committed 232 burglaries per year and some committed 485 thefts per year. See Jan M. Chaiken & Marcia R. Chairken, Varieties of Criminal Behavior 44 (Rand 1982). By locking up these repeat offenders, we could prevent a crime a day in some cases.

This effort to lock up the worst offenders has resulted in a substantial increase in Federal and State prison populations. In fact, since 1990 our State and Federal prison populations have increased by a total of 79 percent. See Bureau of Justice Statistics, Prisoners in 2000 1 (2001).

And mandatory minimums did not operate alone. We also made progress in reducing drug use, a cause of crime, down to very low levels. With solid leadership and antidrug education programs we drove drug use by young people down. The University of Michigan's Monitoring the Future Study showed that drug use among 12th grade school children dropped by 76 percent from 1986 to 1992. Lloyd D. Johnston, et al. Monitoring the Future: National Results on Adolescent Drug Use 14 (Univ. of Mich. 2000).

This dual approach of locking up recidivists and reducing drug use drove crime rates down. From 1990 to 1999, the crime index offenses reported by the FBI, including property crimes and violent crimes, fell to their lowest level since 1973. See Federal Bureau of Investigation, Crime in the United States—1999 6(2000) (stating that crime index offenses for 1999 were the lowest since 1973); Federal Bureau of Investigation, Uniform Crime Reports 2000 1(2001), stating that during 2000, crime index offenses remained stable. Thus, the War on Drugs and the War on Crime that began in the mid and late 1980s bore fruit in the 1990s.

That the system put in place in the 1980s produced good results in general, does not mean that it is perfect. With respect to drug sentencing in particular, the primary focus of the mandatory minimums and the Sentencing Guidelines on quantity has resulted in a blunt instrument that data now shows is in need of refinement.

Since the establishment of mandatory minimums for drug trafficking, the Bureau of Prisons published a study on the recidivism of federal prisoners convicted for various offenses. Federal Bureau of Prisons, Recidivism Among Federal Prison Releases in 1987: A Preliminary Report (1994). For those prisoners convicted of general drug crimes and released after serving their terms, 34.2 percent were rearrested within 3 years. Id. at 12. For those convicted of firearm and explosive crimes, 48.6 percent were rearrested. Id. For those who committed crimes against the person, such as robbery or violent assault, 65 percent were rearrested. Id. Thus, possession of dangerous weapons and violence appear to be better indicators of recidivism than the quantity of drugs possessed or distributed.

The 1986 mandatory minimums based on the quantity of crack cocaine sold or possessed, while appropriately reflecting that drug's more serious effects, failed to keep crack off the streets. The use of crack had grown rapidly in the early and mid-1980s and by 1987 and 1988, crack was available across America, including my home town of Mobile, AL, and small towns all over Alabama. See, e.g., Lloyd D. Johnston, et al. Monitoring the Future: National Results on Adolescent Drug Use 16 (Univ. of Mich. 2000) (noting that crack use grew rapidly from 1983–1986); James Coates & Robert Blau, Big-City Gangs Fuel Growing Crack Crisis, Chicago Tribune, Sept. 13, 1989, at C1, noting that crack use began in Fort Wayne, IN, in 1986 and spread rapidly through that city. Though the tough penalties did not stop the geographical spread of crack, they did, in my opinion, play a role in slowing the rate of increase in use that would have occurred without the tough penalties.

The mandatory minimums for crack were intended to protect minority neighborhoods from the spreading influence of crack. Still, the tough penalties for crack created the appearance

of racial bias because the distributors and users of crack are largely African-American.

Parenthetically, let me note that criminal statutes, as they are written, are not biased, they simply required punishment for those who break them regardless of race, sex, nationality, or religion. Thus, just because more males commit Federal crimes than females, it is not unfair or sexist to punish males with all the severity society concludes is necessary to stop or reduce crimes that both sexes commit. See United States Sentencing Commission, 2000 Sourcebook of Federal Sentencing Statistics 15 (Table 5) (reporting that 85.7 percent of Federal offenders are male and 14.3 percent are female).

Because everyone knows that crack carries heavy penalties, I cannot conclude that it is discriminatory to punish all who possess or distribute it with equal severity. My experience does lead me to conclude, however, that where an overwhelming majority of those convicted of crack offenses are African-American, and the penalties for crack offenses are the most severe, we should listen to fair-minded people who argue that these sentences fall too heavily on African-Americans.

One of the facts used in the argument for changing crack sentences is the percentage of crack defendants that are African-American. In 1995, the Sentencing Commission issued report showing that of the defendants convicted for crack cocaine offenses, 88.2 percent were African-American. United States Sentencing Commission, Cocaine and Federal Sentencing Policy 152 (1995). Of the persons sentenced for powder cocaine offenses, 32 percent where white, 27.4 percent African-American, and 37 percent Hispanic, Id.

This generated stories in newspapers, like one from the Birmingham Post-Herald that reported:

> At first, many of the nation's black leaders supported the hard line against drugs. Inner-city church ministers decried the crack epidemic that seemed to blaze through their neighborhoods. But as the disparities in jail sentences became increasingly obvious, support for the policy dried up among many blacks. . . .''—Thomas Hargrove, *Drug's Form Influences Length of Sentence*, Birmingham Post-Herald, Nov. 17, 1997, at A1, A9 (describing differences in punishments for crack and powder cocaine).

As data from the Sentencing Commission became available during the mid-1990s, many federal and state officials, including myself, began to doubt whether the 100-to-1 ratio between powder and crack cocaine continued to be justifiable.

We in the public service asked ourselves: ''If in light of our experience, we can conclude that crack sentences are disproportionately severe, why should we not act to improve them?''

In 1995 and 1997, the Sentencing Commission unanimously concluded that the crack-powder disparity was no longer justified. See United States Sentencing Commission, Cocaine and Federal Sentencing Policy 198–200 (1995); United States Sentencing Commission, Special Report to the Congress: Cocaine and Federal Sentencing Policy 2 (1997).

Moreover, in 1995, the Sentencing Commission, most of the members of which are federal judges, passed two amendments to the Guidelines to reduce the disparity in sentences between crack and powder cocaine. Specifically, the amendments would have adopted a starting point for the guidelines of equal amounts of crack and powder cocaine—a 1-to-1 ratio at the 500-gram level, and would have provided a sentencing enhancement for violence and other harms associated with crack cocaine. See United States Sentencing Commission, Cocaine and Federal Sentencing Policy 1 (1997). Congress, however, passed and President Clinton signed a law that rejected the amendments and directed the Sentencing Commission to study the issue more thoroughly. Pub. L. No. 104–38, 109 Stat. 334 (1995).

In 1997, the Sentencing Commission responded with a study entitled, ''Cocaine and Federal Sentencing Policy.'' The study recommended a reduction in the crack-powder differential from 100-1 to approximately 5-to-1. United States Sentencing Commission, Cocaine and Federal Sentencing Policy 9 (1997). Specifically, the Commission recommended to Congress that the trigger points for the 5-year mandatory minimum for powder be lowered from 500 grams to a range of 125 to 375 grams and for crack be raised from 5 grams to a range of 25 to 75 grams. Id.

Moreover, some judges who did not sit on the Sentencing Commission began speaking out against the crack-powder differential. See, e.g., Pete Bowles, Judge Known for Unusual Sentences, Newsday, May 22, 1998, at A39 (quoting Judge Jack Weinstein as characterizing the Sentencing Guidelines as ''cruel, excessive and unnecessary,'' and saying, ''I simply cannot sentence another impoverished person whose destruction has no discernible effect on the drug trade''). And some have said that judges may have used downward departures more often than they should have to reduce drug sentences to a level that they view as more just. Indeed, Professors Frank Bowman and Michael Heise, citing a downward trend in drug sentences have stated, ''a pervasive disposition toward discretionary evasion of Guideline and statutory law has important implications for the ongoing struggle among the courts, the Justice Department, the Congress, and the Sentencing Commission for control of sentencing policy.'' See Frank O. Bowman III & Michael Heise, Quiet Rebellion? Explaining Nearly a Decade of Declining Federal Drug Sentences, 86 Iowa L. Rev. 1043, 1049–50 (2001).

To date, however, Congress has declined to address the issue. Many say it is because of a fear of being called ''soft on crime.'' Regardless, we can wait no longer. Based on our experience, the strong position of the Sentencing Commission, which is not a ''soft on crime'' group, and plain fairness, we must act. Congress' refusal to act, in my view, has been unfortunate.

And in light of our experience, we can conclude that crack sentences are disproportionately severe, why should we not act to improve them? To improve these guidelines, to fix them where they are broken, is to strengthen the system, to reduce judicial manipulation, and to restore confidence in the system's fairness.

We must remember, however, that the goals of the drug sentencing are still valid today, to save babies from being addicted to the drugs their mothers take during pregnancy, to save teenagers from wasting their youth on drugs that lead to crime, to save young girls from being forced into prostitution to feed a habit, and to save adults from wasting their lives on nonproductive and damaging drugs.

I challenge any of you to visit a drug court and look at the defendants before and after the drug court program. The transformation from a hopeless criminal on drugs to productive citizen off of drugs will convince anyone of the danger and destructiveness of illegal drugs.

Does an easing of these tough sentences, but not gutting of them, carry risks. Some, but not much:

1. Some will say that it represents proof that the war against drugs is a failure, but as I just explained, the War on Drugs is just as worthy a cause today as it used to be;

2. Some will say that we are less serious, but a balanced reform will treat dangerous crimes more seriously;

3. Some will say that it may ease a bit the pressure a prosecutor can put on a drug dealer to cooperate, but a balanced approach will retain sufficient leverage for a prosecutor to do his job justly;

4. Some will say that heavy sentences have had some ability to reduce distribution, but of course, after a modest decrease the penalties will remain tough.

After thoughtful review, and consideration in light of my own experience in prosecuting drug offense, I have concluded that we must reform the justness of our means to match the legitimacy of our goals. We must restore justness to sentencing for crack trafficking and other drug crimes which will maintain public confidence in the federal government's anti-drug efforts and make those efforts more rational and justifiable.

Today, I propose a bill to make two modest changes to the current sentencing system:

First, the bill will reduce the crack-powder sentencing disparity from the current 100-to-1 ratio to a 20-to-1 ratio—the same ratio proposed by the Reagan Administration in 1986. This bill would trigger the 5-year mandatory minimum sentence for trafficking at 20 grams of crack—not 5 grams—and at 400 grams of powder cocaine—not 500

grams. The 10-year mandatory minimum would be triggered by trafficking 200 grams of crack and by trafficking 4 kilograms of powder.

The reduction in the amount of powder cocaine required to trigger the mandatory minimum from 500 grams to 400 grams reflects that 400 grams is almost a pound of cocaine—a large amount—worth well over $10,000. Also, this increase in the penalty for powder cocaine reflects that powder cocaine is imported and used as the raw material used to make crack. United States Sentencing Commission, Special Report: Cocaine and Federal Sentencing Policy vi (1995). Finally, the increased penalty responds to the powder cocaine use rates among high school students.

According to the University of Michigan Study entitled Monitoring the Future, powder cocaine use among 12th grade students had risen by 61.3 percent from 1992 to 2000, although there was a slight decline from 1999 to 2000. Further, more than twice as many 12th grade students used powder cocaine than crack in 1992 and in 2000.

12TH GRADERS DRUG USE

[In percent]

Drug	1992	2000	Change
Powder	3.1	5.0	61.3
Crack	1.5	2.2	46.7
Percent Greater	106.7		127.2

See Lloyd D. Johnston, Monitoring the Future: National Results on Adolescent Drug Use 14 (Univ. of Mich. 2000) (Table 2).

We need to discourage those who are dealing powder cocaine to our high school students and those who are providing a supply market of powder cocaine that enable the manufacture of crack. This bill does this by providing a small increase in the penalty for powder cocaine.

The bill's decrease in the penalty for crack reflects that a principal reason for creating the much more severe sentence on crack, to prevent the spread of crack use, has failed. Crack is used throughout America.

The bill's approach of narrowing, but not eliminating, the sentencing disparity between crack and powder cocaine by changing the penalties for both drugs parallels the 1997 Sentencing Commission recommendation of increasing penalties and decreasing penalties on crack. United States Sentencing Commission, Special Report to Congress: Federal Sentencing Policy 9 (1997). Further, it is consistent with the bipartisan Act of Congress that President Clinton signed in 1995 rejecting the Sentencing Commission's attempt to equalize the penalties for crack and powder cocaine. That act stated, ''the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking a like quantity of powder cocaine.'' Pub. L. No. 104–38, 104th Cong. 1st Sess. §2(a)(1)(A) (1995). The bill changes the penalties for crack and powder to reduce the 100-to-1 disparity, but retains a reasonable distinction, a 20-to-1 ratio, between crack and powder.

The bill also reduces the 5-year mandatory minimum penalty for the simple possession of 5 grams of crack to just 1 year. This reflects that crack is a more serious drug than most other drugs, but that the sentence need not be unjustifiably harsh.

Second, the bill increases emphasis on defendant's criminality, as opposed to a heavy emphasis on the quantity of drug involved. This bill requires a sentencing enhancement for violence or possession of a firearm, or other dangerous weapon, associated with a drug trafficking offense. This reflects that use of a dangerous weapon or violent action results in higher recidivism rates than drug use along. See Federal Bureau of Prisons, Recidivism Among Federal Prison Releases in 1987: A Preliminary Report 12 (1994).

Further, the bill requires an additional enhancement if the defendant is an organizer, leader, manager, or supervisor in the drug trafficking offense and a ''superaggravating'' factor applies. Superaggravating factors include using a girlfriend or child to distribute drugs, maintaining a crack house, distributing a drugs to minor, an elderly person, or a pregnant woman, bribing a law enforcement official, importing drugs in the United States from a foreign country, or committing the drug offense as a part of a pattern of criminal conduct engaging in as a livelihood. These sentencing enhancements will apply to offenses involving cocaine, methamphetamines, marijuana, and all illegal drugs.

Aside from the girlfriend factor, many of the superaggravating factors are already available in certain cases. The bill would employ these punishments in drug cases as sentencing enhancements, instead of statutory penalties, thus allowing a Federal prosecutor to obtain the tougher penalty by proving the superaggravating criminal conduct by a preponderance of the evidence rather than beyond a reasonable doubt. Further, the bill will make some enhancements easier to establish. For example instead of proving that a victim had a particular vulnerability to a crime, a prosecutor could simply show that the victim was 16 years old.

The offenders to which these sentencing enhancements apply are the most culpable members of the drug trade that prey on young women, school children, and the elderly, and bring violence into our neighborhoods. Their sentences should reflect the criminality of their conduct, not simply the quantity of drugs with which they are caught.

While providing sentencing increases for the worst offenders, the bill limits the impact of mandatory minimums on the least dangerous offenders. The bill caps the drug quantity portion of a sentence for a defendant who plays a minimal role at 10 years, base offense level 32 under the Sentencing Guidelines. This is very significant because couriers, who are often low-level participants in a drug organization, can have disproportionate sentences of 20 or 30 years simply because they are caught with a large amount of drugs in their possession. By capping the impact of drug quantity on the minimal role offenders, the bill allows a greater role for the criminality, or lack of criminality, of their conduct in determining their ultimate sentence.

For example, the bill provides a decrease for the super-mitigating factor of the girlfriend or child who plays a minimal role in the offense. These are often the most abused victims of the drug trade, and we should not punish them as harshly as the drug dealer who used them.

Existing adjustments could then be made for factors such as the role in the offense, acceptance of responsibility, and provision of substantial assistance to the government.

The bill also establishes a 3-year pilot program for placing elderly, nonviolent prisoners in home detention in lieu of prison. It allows the Attorney General to designate 1 or more Federal prisons at which prisoners who meet the following criteria could be placed in home detention.

The prisoner: 1. is at least 65 years old; 2. has served the greater of 10 years or one-half of his sentence; 3. has never committed a Federal or State crime of violence; 4. is not determined by the Bureau of Prisons to have a history of violence or to have committed a violent infraction while in prison; and 5. has not escaped or attempted to escape.

My experience tells me, that elderly prisoners who are nonviolent and who have served a substantial amount of their sentence generally pose no threat to the community. Removing them from prison and placing them in home detention could save the federal government money and free up space to house the most dangerous criminals.

The bill, however, would require an independent study on recidivism and cost savings. At the end of 3 years, Congress could decide whether to continue or expand the pilot program.

There are those on the Left of the political spectrum who want to substantially restrict or even repeal mandatory minimums for some drug offenders and oppose all drug penalty increases. I firmly disagree with such an approach. The Sentencing Guidelines and mandatory minimum statutes have been a critical component of a criminal justice system that treats equal conduct equally. It increases deterrence because criminals know they will not be able to talk themselves out of jail. It is a great system. By following the balanced approach that I have proposed, we improve the guidelines and improve sentencing. My goal is to have our sentencing system consistently impose the right sentence to incapacitate, deter, punish, and rehabilitate the criminal. Because Congress has set the rules, we

must act to improve them. The courts cannot do it for us.

There are those on the Right side of the political spectrum, however, who do not want to decrease any drug penalty whatsoever. While I respect their view, I can not embrace it. The mandatory minimums have been in effect since 1986 and the Sentencing Guidelines have been in effect since 1987. We are not in a position to reflect on what the effects have been.

As we have seen from experience, the 100-to-1 disparity in sentencing between crack cocaine and power cocaine, which falls the hardest on African-Americans, is not justifiable. See, e.g., 145 Cong. Rec. S. 14452–14453 (1999), (statement of Sen. SESSIONS,to-1 ratio is a movement in the right direction,'' but questioning whether solely increasing penalties on crack was justifiable). It is simply unjust.

Further, the focus of the drug sentencing system on quantity of drugs, which has sent the girlfriends of drug dealers, who act as mere couriers, to prison for long terms, should be adjusted to increase the emphasis on the criminality of conduct. This will free up prison space for violent drug offenders.

Trust me on this. The federal drug sentences are tough. In practice—as they play out in actual time served, they are tougher than any State drug sentences that I know of. This legislation will in no way change the seriousness with which drugs are taken. Please know that I will resist with all the force I can muster any attempt to destroy or undermine the integrity or effectiveness of the Sentencing Guidelines. This bill simply targets the toughest sentences to those who deserve it most.

The Drug Sentencing Reform Act of 2001 takes a measured and balanced approach to modifying the sentencing system that we have used for over a decade. By increasing penalties on the worst offenders and decreasing penalties on the least dangerous offenders, we will increase the focus of our law enforcement resources on the drug traffickers that endanger our families and decrease the focus on those defendants who pose less danger.

I commend this bill to my colleagues to study and debate. I challenge them to cast aside the politics of the Left and the Right and to support this bill on the merits as a matter of plain, simple justice.

Mr. HATCH. Mr. President, I rise today to speak briefly on the legislation that my good friend from the State of Alabama, Senator SESSIONS, has introduced today. That legislation, the ''Drug Sentencing Reform Act of 2001,'' addresses the disparity between sentences handed down to those who traffic in power cocaine and those who traffic in crack cocaine. I am proud to cosponsor this bill, and I hope that we can promptly act on it when we return next year.

This legislation provides a balanced and measured solution to the disparity problem without undermining our efforts to pursue relentlessly those who make their living peddling these poisons. At the same time that we reduce the crack-powder sentence ratio from 100 to 1 to 20 to 1 and reduce sentences for girlfriends and children who play truly minimal roles in drug crimes, we increase sentences for those who play leadership roles in trafficking organizations. The bill also increases sentences for those who use firearms or violence in carrying out their drug crimes.

As a former federal prosecutor, United States Attorney, and Attorney General of Alabama, Senator SESSIONS is uniquely qualified to lead the Senate on this issue. Since at least 1998, he has done just that. Both in the Judiciary Committee and on the floor of the Senate, Senator SESSIONS has worked tirelessly to bring about a more just sentencing structure for cocaine offenses. This legislation represents the right approach, and it deserves the support of all of my colleagues.

By Mrs. CLINTON (for herself, Mr. SMITH of Oregon, Mr. STEVENS, Mr. SPECTER, Mrs. BOXER, Mr. FITZGERALD, Mr. SCHUMER, and Mr. DODD):

S. 1876. A bill to establish a National Foundation for the Study of Holocaust Assets; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SMITH of Oregon. Mr. President, I am proud to introduce with Senator CLINTON, the Holocaust Victims' Assets Restitution Policy and Remembrance Act. This legislation will create a public/private Foundation dedicated to educating and to completing the necessary research in the area of Holocaust-era assets and restitution policy and to promote innovative solutions to restitution issues. The Foundation is authorized for ten years at a cost of $100 million, after which it will sunset and ''spin off'' its research results and materials to private entities. It is able to accept private funds as well as public dollars.

The need for the Foundation comes from the work of the Presidential Advisory Commission on Holocaust Assets in the United States. I was proud to have served as a Commissioner along with several of my colleagues in the Senate. The Commission identified a number of policy initiatives that require U.S. leadership, including: further research and review of Holocaust-era assets in the United States and world-wide; providing for the dissemination of information about restitution programs; creating a simple mechanism to assist claimants in obtaining resolution of claims; and, supporting a modern database of Holocaust victims' claims for the restitution of personal property.

The Commission determined that ''our government performed in an unprecedented and exemplary manner in attempting to ensure the restitution of assets to victims of the Holocaust. However, even the best intentioned and most comprehensive policies were unable, given the unique circumstances of the time, to ensure that all victims' assets were restituted.''

I believe this Foundation will provide a focal point for work between Federal and State governments to cross-match property records with lists of Holocaust victims. It will work with the museum community to further stimulate provenance research into European paintings and Judaica. It will promote and monitor the implementation by major banking institutions of the agreement developed in conjunction with the New York Bankers Association. Finally, it will work with the private sector to develop and promote common standards and best practices for research on Holocaust-era assets.

I look forward to working with my colleagues in creating this Foundation to finish the work of the Holocaust Assets Commission. I urge all my colleagues to co-sponsor this important legislation that will solve restitution issues and engender needed research on Holocaust assets in the United States.

By Mr. HARKIN:

S. 1877. A bill to clarify and reaffirm a cause of action and Federal court jurisdiction for certain claims against the Government of Iran; to the Committee on Foreign Relations.

Mr. HARKIN. Mr. President, we all remember the dark days of the Iran hostage crisis between 1979 and 1981. Fifty-two Americans were taken hostage in the U.S. Embassy in Tehran and held in captivity by the Ayatollah Khomeini and his followers for the ensuing 444 days in the newly-established Islamic Republic of Iran. They were brutalized by their captors and the pain and suffering of these brave Americans and their families throughout that ordeal cannot be over-estimated.

A constituent of mine, Ms. Kathryn Koob, from Waverly, IA, is one of two women former hostages who endured this nightmarish experience. Last December, she joined the other 51 American heroes taken hostage and their families in filing a lawsuit in the Federal District Court of the District of Columbia seeking redress of this grievous miscarriage of justice and payment by the Government of Iran for the damages and injuries they incurred. If these plaintiffs are successful, the Federal courts could order payment from Iranian cash and assets still frozen in the United States.

Incredibly, the U.S. Justice and State Departments in mid-October and, at the latest possible hour, intervened in this case, *Roeder v. the Islamic Republic of Iran*, seeking to vacate the Federal judge's default judgment in favor of the former hostages and their families and to have this lawsuit dismissed altogether. De facto the Bush Administration is siding with the Government of Iran and against our own people who were taken hostage and treated so cruelly during the Embassy takeover. How could this be, especially when we are

united as a Nation in a war against terrorism and the U.S. State Department itself continues to document and declare the Government of Iran as the number one state sponsor of terrorism in the world today?

The Government of Iran has never had to pay one cent to any of the Americans taken hostage or their families. If U.S. Justice and State Department attorneys get their way, the Government of Iran will never have to pay anything and the hostages and their families will never be given their day in Federal court to pursue justice and be awarded compensation.

That is why I am today introducing legislation, The Justice for Former U.S. Hostages in Iran Act, to prevent this grave injustice from being compounded. My bill would reaffirm the clear intent of this Congress expressed in four prior enactments and make crystal clear that this group of hostages and their families have the right to pursue their Federal lawsuit to its rightful conclusion and to be eligible to receive compensatory damage awards from the Government of Iran, should the Federal courts so determine on the merits.

The position of the U.S. Justice and State Departments, contrary to the claims and interests of the American hostages and their families, is that the U.S. Government must honor a little-known executive agreement called the Algiers Accords that Presidents Carter and Reagan entered into in January, 1981 in order to get our hostages released from captivity inside Iran. The Algiers Accords, among other provisions, required the U.S. to immediately transfer to Iran through

Algeria $7.9 billion in frozen assets in exchange for the freedom of our people. But also buried in the fine print of the Algiers Accords is one very specific provision which singularly strips the hostages and their families of their rights and flatly prohibits any of them from ever being able to sue the Government of Iran and make that regime pay for their pain and suffering. Ironically, under the terms of the Algiers Accords, U.S. companies can take the Iranians before an international tribunal at The Hague and recover damages for their lost property, but the Americans actually taken hostage and their families alone, are prohibited from doing the same. This is patently unfair to those American heroes and their families who suffered the most from this hellish experience.

The Algiers Accords is not a treaty. It was never submitted to the Senate for ratification for obvious reasons. It is a shabby executive agreement that was negotiated under extreme duress and entered into between the executive branch of our government and the Government of Iran because the Government of Iran, at that time, was daily threatening otherwise to put all of our hostages on trial in Iran as ''spies'' and to execute them. In fact, the Algiers Accords, from their inception, have functioned as little more than a ransom pact with kidnappers acting in the name and under the sponsorship of the Government of Iran.

Last week, the Federal judge hearing this case expressed a reluctance to make a final judgment and to order the Government of Iran to pay damages unless the Congress takes further legislative action to clearly and irrefutably abrogate the Algiers Accords insofar as necessary to allow the Americans held hostage and their families to sue in federal court and recover damages from the Government of Iran. The next court proceeding is this unresolved matter has been scheduled for January 14.

I appeal to my colleagues on both sides of the aisle to co-sponsor this legislation with a sense of urgency and fairness. Unless the Congress acts promptly to reaffirm and clarify our prior enactments, the U.S. Justice and State Departments will block the only path still open to the hostages and their families to pursue justice, to get a federal court judgment against the Government of Iran for its brutal and criminal misconduct, and to require this on-going state sponsor of international terrorism to pay for the pain, suffering and injuries they inflicted on Kathryn Koob and these other courageous Americans.

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. 1877

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

SECTION 1. FEDERAL COURT JURISDICTION OF CERTAIN CLAIMS AGAINST THE GOVERNMENT OF IRAN.

(a) CAUSE OF ACTION.—Notwithstanding the Algiers Accords, any other international agreement, or any other provision of law, a former Iranian hostage or immediate relative thereof shall have a cause of action for money damages against the Government of Iran for the hostage taking and any death, disability, or other injury (including pain and suffering and financial loss) to the former Iranian hostage resulting from the former Iranian hostage's period of captivity in Iran.

(b) JURISDICTION OF THE FEDERAL COURTS.—Notwithstanding the Algiers Accords, any other international agreement, or any other provision of law, no United States court shall decline to hear or determine on the merits a claim under subsection (a) against the Government of Iran.

(c) DEFINITIONS.—In this section:

(1) ALGIERS ACCORDS.—The term ''Algiers Accords'' means the Declarations of the Government of the Democratic and Popular Republic of Algeria concerning commitments and settlement of claims by the United States and Iran with respect to resolution of the crisis arising out of the detention of 52 United States nationals in Iran, with Undertakings and Escrow Agreement, done at Algiers January 19, 1981.

(2) FORMER IRANIAN HOSTAGE.—The term ''former Iranian hostage'' means any United States personnel held hostage in Iran during the period of captivity in Iran.

(3) IMMEDIATE RELATIVE.—The term ''immediate relative'' means, with respect to a former Iranian hostage, the parent, spouse, son, or daughter of the former Iranian hostage.

(4) PERIOD OF CAPTIVITY IN IRAN.—The term ''period of captivity in Iran'' means the period beginning on November 4, 1979, and ending on January 20, 1981.

(d) EFFECTIVE DATE.—This section shall apply to—

(1) any action brought before the date of enactment of this Act and being maintained on such date; and

(2) any action brought on or after the date of enactment of this Act.

By Mrs. HUTCHISON (for herself and Mr. BINGAMAN):

S. 1878. A bill to establish programs to address the health care needs of residents of the United States-Mexico Border Area, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, I rise today to introduce the U.S./Mexico Border Health Improvement Act. The issue of public health along the U.S./Mexico Border is as vast and varied as the 2000-mile Border itself. With the enactment of the NAFTA agreement, and the tremendous growth in population in the region, the Border represents, for both countries, the area of both greatest potential and enormous challenge. From San Yisidro to Brownsville, and from Tijuana to Matamoros, over 10 million people call the Border region home. At the same time, the U.S. Border population is growing three times as fast as the rest of the Nation's, and the population of Mexico's border cities is expected to double over the next decade. For this reason, I am pleased to be joined by Senator BINGAMAN to offer legislation on the critical issue of improving U.S./Mexico Border Health.

The Border region is like a ''top ten'' list of substandard living conditions: the highest poverty rate; the lowest education rate; highest unemployment; worst environmental degradation; and the worst record for all major public health indicators.

The statistics are mind-numbing, but it is the sad reality of the human suffering and of the individuals, families, and communities behind those numbers that is so heart wrenching. Diabetes, HIV, hepatitis, tuberculosis, and birth defects all remain disproportionately and unacceptably high. Meanwhile, childhood immunizations, screenings, health education, and the ratio of health care providers to the general population all remain unacceptably low.

This legislation that I offer today provides for a comprehensive border health program to address this woeful situation that includes the creation of an office of Border Health within Health and Human Services, authorizations for community health centers, and dental outreach programs. This bill also directs the Secretary of Health and Human Services to recruit and retain quality members of the National Health Service Corps for service

in the border region, while requesting authorization for the recruitment, training and retaining of bilingual health professionals, ''promotor(a)s.''

As a member of the United States Senate, I have worked very hard to improve the health of Border residents in the short term, but more important, to putting in place the infrastructure and institutions necessary to ensure a good, healthful life for our Nation's people well into the twenty-first century.

I commend the Senator from New Mexico for his support on this issue, and I urge other Senators to join us in this effort.

I ask unanimous consent the bill be printed in the RECORD.

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

S. 1878

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 ''United States/Mexico Border Health Improvement Act of 2001''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States-Mexico Border Area is the area located in the United States within 100 kilometers of the border between the United States and Mexico.

(2) In the United States, the United States-Mexico Border Area encompasses 46 counties in California, Arizona, New Mexico, and Texas.

(3) Presently, the United States-Mexico Border Area is experiencing explosive population growth. In the United States, this region currently has 11,500,000 residents. However, this number is expected to exceed 22,000,000 by the year 2025. The population of the region in Mexico is growing at an ever faster rate. In total, the population of the communities in both countries is expected to double between the years 2020 and 2025.

(4) With 11,500,000 residents and a 2,000-mile expanse, the United States-Mexico Border Area has the population and size of a State of the United States. If the region was such a State, it would rank—

(A) last in access to health care;

(B) second in death rates (due to hepatitis);

(C) third in deaths related to diabetes;

(D) first in the number of tuberculosis cases;

(E) first in schoolchildren living in poverty; and

(F) last in per capita income.

(5) In addition to the specific health problems listed in paragraph (5), hundreds of thousands of Area residents also each day face increased health risks due to being exposed to the polluted water, soil, and air of the region.

(6) Every county in the United States-Mexico Border Area in the United States has at least a partial health professional shortage area designation. Twenty-five percent of such counties have severe shortages and lack adequate primary care physicians. The shortage of dentists is also severe in many Area localities.

(7) According to GAO, the United States-Mexico Border Area contains hundreds of colonias. Colonias are substandard developments that typically lack running water, sewerage systems, and electricity. Many of the residents of colonias are migrant farmworker families.

(8) Due to the poor living conditions in the colonias, the United States-Mexico Border Area has a much higher rate of waterborne infectious diseases. The occurrence of hepatitis A, for example, is 3 times the national rate, and the occurrence of salmonella and shigella dysentery occur is 2 to 4 times the national rate.

SEC. 3. DEFINITIONS.

In this Act:

(1) UNITED STATES-MEXICO BORDER AREA.—The term ''United States-Mexico Border Area'' means the area located in the United States within 100 kilometers of the border between the United States and Mexico.

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

SEC. 4. OFFICE OF BORDER HEALTH.

(a) IN GENERAL.—There is established within the Department of Health and Human Services an Office of Border Health (referred to in this section as the ''Office'').

(b) DIRECTOR.—The Secretary shall appoint a Director of the Office to administer and oversee the functions of such Office.

(c) AUTHORITY.—In overseeing the Office, the Secretary, acting through the Director—

(1) shall be responsible for the overall direction of the Office and for the establishment and implementation of general policies respecting the management and operation of programs and activities of the Office;

(2) shall establish programs and activities to study and monitor border health service delivery in general, the coordination of Federal and State and Federal and local border health activities, the health education available for border residents, existing outreach for residents and the success of such outreach, health service activities, particularly prevention, and early intervention activities, and any other activity that the Secretary determines is appropriate to improve the health of United States-Mexico Border Area residents, including the health of Native American tribes located within the primary Area;

(3) shall review Federal public health programs and identify opportunities for collaboration with other Federal, State, and local efforts to address border health issues;

(4) shall coordinate activities with the United States-Mexico Border Health Commission and State offices;

(5) shall award grants to States, local governments, nonprofit organizations, or other eligible entities as determined by the Secretary, in the United States-Mexico border area to address priorities and recommendations established by—

(A) the United States-Mexico Border Health Commission on a binational basis, including the Healthy Border 2010 Program Objectives; and

(B) the Director, to improve the health of border region residents;

(6) shall award grants to programs that seek to improve the health care of Area residents, with priority given to applicants such as the Health Resources and Services Administration and other applicants that seek to provide telemedicine and telehealth services; and

(7) shall collaborate with appropriate counterparts in Mexico to coordinate actions and programs to improve health for residents of the United States-Mexico border area.

(d) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report describing Federal health programs' limitations in addressing United States-Mexico Border Area health concerns and recommending solutions to better address such concerns.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 5. UNITED STATES-MEXICO BORDER AREA ENVIRONMENTAL HEALTH PROGRAM.

(a) IN GENERAL.—The Secretary shall award grants to eligible entities as determined by the Secretary to establish environmental health hazard programs for the United States-Mexico Border Area.

(b) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities that propose to establish and carry out programs that address environmental health hazards in the United States-Mexico Border Area for pregnant women and children.

(c) DUTIES.—An eligible entity that receives a grant under this section, shall use funds received through such grant to—

(1) establish an environmental health program that addresses health hazards along the United States-Mexico Border Area;

(2) identify and eliminate environmental health hazards;

(3) coordinate its program with any environmental health programs, if applicable, administered by the Environmental Protection Agency, the National Institute of Environmental Health Sciences, the International Consortium for the Environment (ICE), other relevant Federal, State, and local agencies, and nongovernmental organizations;

(4) recruit and train health professionals and environmental health specialists to identify and address environmental health hazards in the United States-Mexico Border Area; or

(5) support State and local public health, food safety, and building inspection agencies to reduce environmental health hazards, including hazards existing in or around private residences in the United States-Mexico Border Area.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 6. COMMUNITY HEALTH CENTERS.

Part D of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

''SEC. 330I. UNITED STATES-MEXICO BORDER AREA GRANTS.

''(a) IN GENERAL.—The Secretary shall award grants to eligible entities as determined by the Secretary to establish community health centers in medically underserved areas of the United States-Mexico Border Area.

''(b) DEFINITIONS.—The term ''United States-Mexico Border Area'' means the area located in the United States within 100 kilometers of the border between the United States and Mexico.

''(c) DUTIES.—An eligible entity that receives a grant under this section shall establish and fund community health centers in medically underserved areas of the United States-Mexico Border Area, and as designated by the Secretary.

''(d) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.''.

SEC. 7. NATIONAL HEALTH SERVICE CORPS.

Subpart II of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by adding at the end the following:

''SEC. 339. UNITED STATES-MEXICO BORDER HEALTH SERVICE CORPS.

''(a) IN GENERAL.—The Secretary shall establish a loan repayment program and recruit National Health Service Corps members to provide health services for United States-Mexico Border Area residents in exchange for participation in such program.

''(b) PREFERENCE.—In selecting Corps members to participate, the Secretary shall give preference to pediatricians and pediatric specialists who are fluent in English and Spanish, and to applicants who agree to serve along the United States-Mexico Border Health Area for at least 2 years.

''(c) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a loan repayment program described in subsection (a).

''(2) CONTRACT.—Under such program, the Secretary shall enter into written agreements with individuals selected by the Secretary to provide the health services described in subsection (a) in exchange for the Secretary providing payment for the individual for the principal, interest, and related expenses on government and commercial loans received by the individual regarding the graduate or undergraduate education of the individual (or both).

''(3) PAYMENT FOR YEARS SERVED.—For every 2 years of service that an individual contracts to serve under this section the Secretary may pay for 1 year of educational expenses, including tuition, living expenses, and any other such reasonable educational expenses.

''(d) UNITED STATES-MEXICO BORDER AREA.—The term ''United States-Mexico Border Area'' means the area located in the United States within 100 kilometers of the border between the United States and Mexico.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.''.

SEC. 8. PROMOTOR(A) GRANT PROGRAMS.

(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities to establish promotor(a) programs to recruit, train, and retain bilingual lay health advisers to provide culturally appropriate health education and other services for medically underserved populations in the United States-Mexico Border Area.

(b) DEFINITION.—The term ''eligible entity'' means a school of public health, an academic health sciences center, a Federally qualified health center, a public health agency, a border health office, or a border health education training center or any other entity determined by the Secretary that is located in or that serves the United States-Mexico Border Area.

(c) DUTIES.—An eligible entity that receives a grant under this section shall, in addition to the duties described in subsection (a), develop bilingual promotor(a) and other border-specific health training programs.

(d) APPLICATION.—An eligible entity desiring a grant under this section, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 9. GRANTS FOR DISTANCE LEARNING.

(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to United States-Mexico Border Area State and local health agencies, community health centers, and other appropriate organizations to fully participate in the provider education distance learning/information dissemination network of the Health Services and Resources Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 10. PREVENTION AND TREATMENT OF HIV/AIDS.

(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a study to review agency activities regarding reducing the spread of HIV/Aids affecting the residents in the United States-Mexico Border Area.

(b) COORDINATIONS.—In carrying out such study, the Secretary shall coordinate activities with the appropriate Federal and State agencies and with appropriate agencies in Mexico to develop early intervention and treatment efforts to curb the spread of HIV/AIDS.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 11. PREVENTION AND TREATMENT OF TUBERCULOSIS.

(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a study to review agency activities regarding reducing the spread of tuberculosis, particularly multi-drug resistant tuberculosis, affecting the residents in the United States-Mexico Border Area.

(b) COORDINATION.—In carrying out such study, the Secretary shall coordinate activities with the Immigration and Naturalization Service and other appropriate Federal and State agencies and with appropriate agencies in Mexico to develop diagnosis, detection, and early intervention and treatment efforts to curb the spread of tuberculosis, particularly multi-drug resistant tuberculosis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 12. CHILDREN'S HEALTH INSURANCE PROGRAM.

The Secretary shall establish a targeted campaign of public education and awareness in the United States-Mexico Border Area that is culturally relevant to the residents of that Area.

SEC. 13. INTERVENTION AND TREATMENT GRANTS.

(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities as determined by the Secretary to carry out intervention and treatment programs for diabetes.

(b) USE OF FUNDS.—An entity that receives a grant under this section shall use funds received through such grant to—

(1) develop intervention programs oriented towards increasing access to diabetes health care;

(2) increase venues and opportunities for physical activity and exercise in the border area;

(3) address obesity as a risk factor for diabetes, especially in juvenile populations;

(4) improve health choices in school nutrition; and

(5) develop diabetes networks and coalitions to encourage communities to address diabetes risk factors.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 14. CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) PROGRAM AUTHORIZED.—The Centers for Disease Control and Prevention shall establish a National Border Health Databank (referred to in this section as the ''Databank'') to gather and retain data and other information on the health of United States-Mexico Border Area residents and on past, present, and emerging health issues in such Area.

(b) CONTENT.—The Databank shall include an Epidemiological Information System that shall be linked, where feasible, to all relevant State and local health agencies and other relevant national and international health organizations.

(c) AVAILABILITY OF DATA.—All information gathered and retained by the Databank shall, where practicable, be made available for the public via the Internet. The Centers for Disease Control and Prevention shall publish no less than quarterly a publication reporting on activities, studies, and trends regarding United States-Mexico Border Area health issues, including, the resources available from the Databank.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 15. CENTER FOR DISEASE CONTROL PREVENTION.

(a) PROGRAM AUTHORIZED.—There is established within the Centers for Disease Control and Prevention a Border Health Surveillance Network (referred to in this section as the ''Network'').

(b) DUTIES.—The Network shall—

(1) carry out activities to develop and electronically link the health surveillance, assessment, and response capabilities of the Centers for Disease Control and Prevention and all border State and local health agencies; and

(2) award grants to State and local public health agencies, medical schools, schools of public health, Border Health Education Training Centers, or other entities as determined by the Secretary located in or serving the United States-Mexico Border Area for the development of border health epidemiology training programs and to build upon the existing Health Alert Network, the Information Network for Public Health Officials, the Border Infectious Disease Surveillance (''BIDS'') Project, and a Noncommunicable Disease Surveillance System.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 16. BORDER AREA BREAST AND CERVICAL CANCER SCREENING.

Section 1501 of the Public Health Service Act (42 U.S.C. 300k) is amended by adding at the end the following:

''(e) SPECIAL CONSIDERATION FOR BORDER AREA RESIDENTS.—In making grants under subsection (a), the Secretary shall set-aside certain funds described in give special consideration to any State that proposes to increase the number of United States-Mexico Border Area residents who are screened for breast and cervical cancer.''.

SEC. 17. GRANTS FOR BORDER AREA HEALTH TESTING.

(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention shall award grants to United States-Mexico Border Area State and local health agencies to upgrade public health laboratories and conduct rapid tests for disease organisms and toxic chemicals.

(b) COORDINATION.—A State or local health agency that receives a grant under this section shall, to the extent possible, coordinate its activities carried out with funds received under this section with activities carried out under programs administered by the National Laboratory Training Network.

(c) APPLICATION.—A State or local health agency desiring a grant under this section shall submit an application to the Director

at such time, in such manner, and containing such information as the Director may reasonably require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 18. HEALTH PROMOTION ACTIVITIES.

(a) IN GENERAL.—The Secretary shall establish new, comprehensive guidelines for community- and family-oriented prevention and health promotion activities focused on Guidelines under The Healthy Border 2010 Guidelines. The Director shall disseminate these guidelines in both English and Spanish to all United States-Mexico Border Area health professionals, utilizing all available tools, including the CDC Prevention Guidelines Database.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 19. GENERAL ACCOUNTING OFFICE.

(a) PROGRAM AUTHORIZED.—The General Accounting Office shall conduct a comprehensive study of Federal and Federal and State border health programs.

(b) CONTENT.—The study described in subsection (a) shall review border health care programs to determine the manner in which such programs may be improved. Such study shall also review any problematic limitations of medicare and medicaid programs in serving United States-Mexico Border Area residents.

(c) REPORT.—Not later than 1 year after the date of enactment of this section, the General Accounting Office shall prepare and submit to Congress a report describing the findings of the study described in subsection (a) and recommending certain courses of action to improve such border health care programs, with particular emphasis on recommendations for improving Federal and State and Federal and local coordinations. Such report shall also make recommendations for changes with regard to medicare and medicaid payment laws and policies for telemedicine and telehealth activities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 20. AGENCY FOR HEALTH CARE RESEARCH AND QUALITY.

(a) IN GENERAL.—The Agency for Health Care Research and Quality shall conduct a comprehensive study of border health needs, trends, and areas of needed improvement and shall utilize border academic institutes to carry out such study and share the results of such study with such institutes.

(b) CONTENT.—The study described in subsection (a) shall study the health needs of United States-Mexico Border Area residents and—

(1) residents' access to health care services;

(2) communicable disease control in the Area;

(3) environmental problems in the Area that contribute to health care problems;

(4) health research being done on residents' health care needs;

(5) make recommendations regarding environmental improvements that may be made to improve health conditions of Area residents; and

(6) make recommendations regarding long range plans to improve the quality and availability of health care of Area residents.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 21. GRANTS TO INCREASE RESOURCES FOR COMMUNITY WATER FLUORIDATION.

(a) IN GENERAL.—The Secretary, acting through the Director of the Division of Oral Health of the Centers for Disease Control and Prevention, may make grants to Southwestern border States or localities for the purpose of increasing the resources available for community water fluoridation.

(b) USE OF FUNDS.—A State or locality shall use amounts provided under a grant under subsection (a)—

(1) to purchase fluoridation equipment;

(2) to train fluoridation engineers; or

(3) to develop educational materials on the advantages of fluoridation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 22. COMMUNITY WATER FLUORIDATION.

(a) IN GENERAL.—The Secretary, acting through the Director of the U.S. Mexico Border Health Commission and the Director of the Centers for Disease Control and Prevention, shall establish a demonstration project that is designed to assist rural water systems in Texas, New Mexico, Arizona and California in successfully implementing the Centers for Disease Control and Prevention water fluoridation guidelines entitled ''Engineering and Administrative Recommendations for Water Fluoridation'' (referred to in this section as the ''EARWF'').

(b) REQUIREMENTS.—

(1) COLLABORATION.—The Director of the U.S. Mexico Border Health Commission shall collaborate with the Director of the Centers for Disease Control and Prevention in developing the project under subsection (a). Through such collaboration the Directors shall ensure that technical assistance and training are provided to sites located in each of the 4 States referred to in subsection (a). The Director of the U.S. Mexico Border Health Commission shall provide coordination and administrative support to tribes under this section.

(2) GENERAL USE OF FUNDS.—Amounts made available under this section shall be used to assist small water systems in improving the effectiveness of water fluoridation and to meet the recommendations of the EARWF.

(3) FLUORIDATION SPECIALISTS.—

(A) IN GENERAL.—In carrying out this section, the Secretary shall provide for the establishment of fluoridation specialist engineering positions in each of the Dental Clinical and Preventive Support Centers through which technical assistance and training will be provided to tribal water operators.

(B) CDC.—The Director of the Centers for Disease Control and Prevention shall appoint individuals to serve as the fluoridation specialists.

(4) IMPLEMENTATION.—The project established under this section shall be planned, implemented and evaluated over the 5-year period beginning on the date on which funds are appropriated under this section and shall be designed to serve as a model for improving the effectiveness of water fluoridation systems of small rural communities.

(c) EVALUATION.—In conducting the ongoing evaluation as provided for in subsection (b)(4), the Secretary shall ensure that such evaluation includes—

(1) the measurement of changes in water fluoridation compliance levels resulting from assistance provided under this section;

(2) the identification of the administrative, technical and operational challenges that are unique to the fluoridation of small water systems;

(3) the development of a practical model that may be easily utilized by other tribal, State, county or local governments in improving the quality of water fluoridation with emphasis on small water systems; and

(4) the measurement of any increased percentage of Southwestern border residents who receive the benefits of optimally fluoridated water.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 23. COMMUNITY-BASED DENTAL SEALANT PROGRAM.

(a) IN GENERAL.—The Secretary, acting through the Director of the Maternal and Child Health Bureau of the Health Resources and Services Administration, may award grants to eligible entities determined by the Secretary to provide for the development of innovative programs utilizing mobile van units to carry out dental sealant activities to improve the access of children to sealants as well as for prevention and primary care.

(b) USE OF FUNDS.—An entity shall use amounts received under a grant under subsection (a) to provide funds to eligible community-based entities to make available a mobile van unit to provide children in second or sixth grade with access to dental care and dental sealant services. Such services may be provided by dental hygienists so long as a formalized plan for the referral of a child for treatment of dental problems is established.

(c) ELIGIBILITY.—To be eligible to receive funds under this section an entity shall—

(1) prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require; and

(2) be a community-based entity that is determined by the Secretary to provide an appropriate entry point for children into the dental care system and be located within 100 kilometers of the United States Mexico Border.

(d) COORDINATION WITH OTHER PROGRAMS.—An entity that receives funds from a State under this section shall serve as an enrollment site for purposes of enabling individuals to enroll in the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or in the State Children's Health Insurance Program under title XXI of such Act (42 U.S.C. 1397aa et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

SEC. 24. UNITED STATES HISPANIC NUTRITION EDUCATION AND RESEARCH CENTER.

(a) ESTABLISHMENT.—The Secretary shall establish a United States Hispanic Nutrition Education and Research Center (referred to in this section as the ''Center'') at a regional academic health center.

(b) PURPOSE.—The general purpose of the Center shall be to undertake nutrition research and nutrition education activities that sustain and promote the health of United States Hispanics, particularly those United States Hispanics in the United States-Mexico Border Area. The Center shall serve as a national clearinghouse for research, and for data collection and information dissemination on nutrition in the United States Hispanic population. In addition, the Center shall serve as an educational resource on United States Hispanic nutrition for students, universities, and academic and research institutions throughout the United States.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1879. A bill to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, I am pleased today to introduce the

''Russian River Land Act''. The purpose of this legislation is to ratify an agreement that settles a land ownership issue at the Russian River on the Kenai Peninsula in Alaska between the U.S. Forest Service, the U.S. Fish and Wildlife Service, and Cook Inlet Region, Inc., CIRI, an Alaska Native Corporation.

The legislation ratifies an agreement reached between CIRI and the agencies after three years of negotiations and it covers the lands at the confluence of the Kenai and Russian Rivers in Alaska.

The area surrounding the confluence of the Russian and Kenai Rivers is rich in archaeological cultural features. It is also the site of perhaps the most heavily used public sports fishery in Alaska. Because of the archaeological resources at Russian River, Cook Inlet Region, Inc., made selections at Russian River under the section of the Alaska Native Claims Settlement Act that allowed for selections of historical places and cemetery sites. The lands at the confluence are managed in part by the U.S. Forest Service and in part by the U.S. Fish and Wildlife Service.

Seeking to protect the public's access to the sport fishery at Russian River, the two federal agencies and Cook Inlet Region, Inc., reached an agreement that requires the Federal legislation in order to become effective. Because this agreement provides for continuing ownership and management by the two Federal agencies of the vast majority of lands at Russian River, the public's right to continue fishing remains unchanged from its current status.

I congratulate the U.S. Forest Service, the Fish and Wildlife Service and CIRI for finding a way to fulfill the intent of the Alaska Native Claims Settlement Act in a way that fully protects the interests of the public. I also congratulate all three parties on reaching final accord on the longstanding unresolved issue of land ownership at Russian River.

By Mr. WELLSTONE:

S. 1880. A bill to provide assistance for the relief and reconstruction of Afghanistan, and for other purposes; to the Committee on Foreign Relations.

Mr. WELLSTONE. Mr. President, I am introducing the Afghanistan Freedom and Reconstruction Act of 2001. This legislation is a comprehensive framework for U.S. bilateral and multilateral assistance for the humanitarian relief and long-term reconstruction and rehabilitation of Afghanistan. It is a companion to H.R. 3427, introduced by Representatives LANTOS and ACKERMAN in the House.

The last pockets of Taliban resistance are being routed, and the new interim administration of Afghanistan is set to assume power in Kabul in 2 days. Freedom is returning to Afghanistan. Its men and women are listening to music again and women are leaving their homes unescorted, cautiously optimistic about their future after enduring years of repressive rule.

Now is the time for decisive action by Congress and by the administration to demonstrate to the people of Afghanistan and throughout the Muslim world that the war against the al-Qaida and the Taliban was neither a war against Muslims, nor against ordinary Afghans. The United States has led the effort to eliminate the terrorist network in Afghanistan, and now it must lead the peace effort by helping the Afghan people reclaim their country and rebuild their lives.

The United States did not live up to its commitment to the Afghan people after the Soviets were defeated in the 1980s. I regret to say we walked away. If we break or commitment again, Afghanistan is likely to remain an isolated incubator of terrorist activities, and regional instability will continue. We would not now be focused on Afghanistan had the events of September 11 not occurred. Those horrific events have driven home the truth that the indivisibility of human security is not just an empty slogan, but a fact, which we ignore at our peril.

The causes of the Afghan tragedy include nearly all the horrors that stalk failed states: meddling and invasion by neighboring states, internecine warfare leading to a takeover by brutal fanatics, oppression of a majority of the population, especially women and, finally, the Taliban's fateful decision to host international terrorists.

The cures for Afghanistan's agony are less obvious, but one is clear. The rival political and ethnic groups must take advantage of the historic opportunity that emerged in Bonn and make a genuine commitment to the peaceful sharing of power. They must establish a government broad and effective enough to meet the basic needs of the people. The same narrow-minded factionalism that originally left the country vulnerable to backward mullahs, greedy warlords and predatory neighbors continues to pose a threat to the country now.

One other thing is clear: the United States must lead the international community in moving quickly and decisively in a long-term commitment to the reconstruction of Afghanistan. The people of Afghanistan have endured 23 years of war and misery. The conflict has threatened international stability and placed enormous burdens on the people's limited means. The Bush administration has said that it will not let Afghanistan descend into chaos. But, talk is not enough. We must act by committing significant resources. We must show Afghans that our commitments are not hollow. We must show genuine solidarity and real generosity now.

It is time to reverse more than a decade of neglect. The United States, in partnership with the international community, must be willing to make a multi-year, multinational effort to rebuild Afghanistan. Current estimates of the cost of assisting Afghanistan range from $5 billion over 5 years to $40 billion over a decade. The United States should be the lead financial contributor to the rehabilitation and reconstruction effort in Afghanistan, and we believe should contribute as much as $5 billion to this effort over the next 5 years.

The reconstruction effort must focus on education, particularly for girls, which has proven to give the greatest return for each assistance dollar. Creation of secular schools will help break the stranglehold of extremism and allow both boys and girls to make positive contributions to the development of their society. The effort must also focus on rebuilding basic infrastructure, repairing shattered bridges and roads, removing land mines, reconstructing irrigation systems and drilling wells. We must also rebuild the health infrastructure by establishing basic hospitals and village clinics.

Over the past few months, I have held a series of hearings in the Senate Foreign Relations Committee's Subcommittee on Near Eastern and South Asia Affairs regarding the humanitarian and reconstruction needs of Afghanistan. Based on these hearings, I am convinced we must help the Afghan people live in a society where they can feed their children, live in safety and participate fully in their country's development regardless of gender, religious belief or ethnicity.

The Afghan Freedom and Reconstruction Act of 2001 does just that. That bill:

Expresses a sense of Congress on the U.S. policy towards Afghanistan, including promoting its independence, supporting a broad-based, multi-ethnic, gender-inclusive, fully representative government, and maintaining a significant U.S. commitment to the relief, rehabilitation and reconstruction of Afghanistan.

Authorizes $400 million for humanitarian assistance to Afghanistan in fiscal year 03, including $75m for refugee assistance and $175m for food aid.

Authorizes such sums as may be necessary for a multinational security force in Afghanistan, in fiscal year 02 and fiscal year 03.

Authorizes $1.175 billion for rehabilitation and reconstruction assistance for fiscal years 2002–2006, to be distributed by USAID, with conditions for each year to ensure that benchmarks laid out in the December 5, 2001, Bonn Agreement between the various Afghan factions are being met; assistance for agriculture, health care, education, vocational training, disarmament and demobilization, and anticorruption and good governance programs; a special emphasis on assistance to women and girls; a report on assistance actually provided; and authority to provide some of this assistance through a multilateral fund and/or international foundation.

Authorizes the President to furnish such sums as may be necessary to finance a multilateral fund or international foundation, to assist in security, rehabilitation, and reconstruction

efforts in Afghanistan, as described above.

Authorizes $60 million for Democracy and human rights initiatives for FY02 through FY04.

Authorizes $62.5 for a contribution to the U.N. Drug Control Program for FY02 through FY04 to reduce or eliminate the trafficking of illicit drugs in Afghanistan.

Authorizes $65 million for a new secure diplomatic facility in Afghanistan.

The legislation's message is simple: the United States is not only a great Nation, but a generous Nation. We keep our word, and stand ready to match our words with our actions. We must not turn our backs again on the people of Afghanistan.

By Mr. DODD (for himself and Mr. MILLER):

S. 1881. A bill to require the Federal Trade Commission to establish a list of consumers who request not to receive telephone sales calls; to the Committee on Commerce, Science and Transportation.

Mr. DODD. Mr. President, today I am introducing legislation along with my friend and colleague from Georgia, Senator MILLER, to help individuals whose personal time is interrupted by the constant annoyance of telephone solicitors. Our bill, modeled after a Connecticut statute, would require the Federal Trade Commission to establish a ''no-call'' list of consumers who do not wish to receive unsolicited telemarketing calls.

A Department of Labor survey reports that 84 percent of Americans would trade income for more free time. People want to spend more time in the evening with their families, whether it be sitting down to dinner together, relaxing in front of the television, helping children with homework, or catching up with household chores. I suspect most people do not want to be inconvenienced with intrusive, unsolicited telemarketing calls during the evening or anytime throughout the day.

Telemarketing revenue increased from $492.3 billion in 1998 to $585.9 billion in 2000, which translates into millions of phone calls every year. While many sales pitches are made on behalf of legitimate organizations and businesses, consumers still lose more than $40 billion a year to fraudulent sales of goods and services over the telephone. It is time to empower consumers with the ability to stop most unsolicited calls, legitimate or otherwise, from entering their homes and disturbing their lives.

In Connecticut, people now have the right to place their name on a ''do not call'' list and more than 225,000 households have contacted the Department on Consumer Protection to take advantage of the new law. All telemarketers are required to consult that list and are prohibited from contacting households on the list. Other states, including Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Kentucky, Missouri, New York, North Carolina, Oregon, and Tennessee, have enacted similar laws.

States are taking this action because a 1994 Federal law to curb unsolicited telemarketing, while a good beginning, has not fully succeeded in protecting families' privacy. In fact, individual consumers must keep track of every telemarketer they have contacted to determine if a solicitation call was made in violation. There are numerous exemptions to the Federal law, as well, as because there are no penalties for calls made in ''error,'' it has proved difficult to enforce.

Direct Marketing Association members do not oppose the Connecticut law. It is their belief that consumers placing their name on a list would never buy a product from a telemarketer anyway, and thus the list saves telemarketers time and resources.

Our legislation would take much of the burden off of consumers. At the same time, a comprehensive and universal law actually could help telemarketers by streamlining the process. The legislation we are introducing today would require the Federal Trade Commission to establish a ''no sales solicitation calls'' listing of consumers who do not wish to receive unsolicited calls. Although certain types of calls would be exempt, including calls from any company with whom a consumer currently does business, non-profits looking for donations, pollsters, and those publishing telephone directories, a violation of the ''no call'' list would be deemed an unfair or deceptive trade practice and the telemarketer could be fined.

I urge my colleagues to cosponsor this important consumer legislation and I ask that the bill be printed in the RECORD.

I think the chair and 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. 1881

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 ''Telemarketing Intrusive Practices Act of 2001''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CALLER IDENTIFICATION SERVICE OR DEVICE.—The term ''caller identification service or device'' means a telephone service or device that permits a consumer to see the telephone number of an incoming call.

(2) CHAIRMAN.—The term ''Chairman'' means the Chairman of the Federal Trade Commission.

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) CONSUMER.—The term ''consumer'' means an individual who is an actual or prospective purchaser, lessee, or recipient of consumer goods or services.

(5) CONSUMER GOODS OR SERVICES.—The term ''consumer good or service'' means an article or service that is purchased, leased, exchanged, or received primarily for personal, family, or household purposes, including stocks, bonds, mutual funds, annuities, and other financial products.

(6) MARKETING OR SALES SOLICITATION.—

(A) IN GENERAL.—The term ''marketing or sales solicitation'' means the initiation of a telephone call or message to encourage the purchase of, rental of, or investment in, property, goods, or services, that is transmitted to a person.

(B) EXCEPTION.—The term does not include a call or message—

(i) to a person with the prior express invitation or permission of that person;

(ii) by a tax-exempt nonprofit organization;

(iii) on behalf of a political candidate or political party; or

(iv) to promote the success or defeat of a referendum question.

(7) STATE.—The term ''State'' means each of the several States of the United States and the District of Columbia.

(8) TELEPHONE SALES CALL.—

(A) IN GENERAL.—The term ''telephone sales call'' means a call made by a telephone solicitor to a consumer for the purpose of—

(i) engaging in a marketing or sales solicitation;

(ii) soliciting an extension of credit for consumer goods or services; or

(iii) obtaining information that will or may be used for the direct marketing or sales solicitation or exchange of or extension of credit for consumer goods or services.

(B) EXCEPTION.—The term does not include a call made—

(i) in response to an express request of the person called; or

(ii) primarily in connection with an existing debt or contract, payment, or performance that has not been completed at the time of the call.

(9) TELEPHONE SOLICITOR.—The term ''telephone solicitor'' means an individual, association, corporation, partnership, limited partnership, limited liability company or other business entity, or a subsidiary or affiliate thereof, that does business in the United States and makes or causes to be made a telephone sales call.

SEC. 3. FEDERAL TRADE COMMISSION NO CALL LIST.

(a) IN GENERAL.—The Commission shall—

(1) establish and maintain a list for each State, of consumers who request not to receive telephone sales calls; and

(2) provide notice to consumers of the establishment of the lists.

(b) STATE CONTRACT.—The Commission may contract with a State to establish and maintain the lists.

(c) PRIVATE CONTRACT.—The Commission may contract with a private vendor to establish and maintain the lists if the private vendor has maintained a national listing of consumers who request not to receive telephone sales calls, for not less than 2 years, or is otherwise determined by the Commission to be qualified.

(d) CONSUMER RESPONSIBILITY.—

(1) INCLUSION ON LIST.—Except as provided in subsection (d)(2), a consumer who wishes to be included on a list established under subsection (a) shall notify the Commission in such manner as the Chairman may prescribe to maximize the consumer's opportunity to be included on that list.

(2) DELETION FROM LIST.—Information about a consumer shall be deleted from a list upon the written request of the consumer.

(e) UPDATE.—The Commission shall—

(1) update the lists maintained by the Commission not less than quarterly with information the Commission receives from consumers; and

(2) annually request a no call list from each State that maintains a no call list and update the lists maintained by the Commission at that time to ensure that the lists maintained by the Commission contain the same information contained in the no call lists maintained by individual States.

(f) FEES.—The Commission may charge a reasonable fee for providing a list.

(g) AVAILABILITY.—

(1) IN GENERAL.—The Commission shall make a list available only to a telephone solicitor.

(2) FORMAT.—The list shall be made available in printed or electronic format, or both, at the discretion of the Chairman.

SEC. 4. TELEPHONE SOLICITOR NO CALL LIST.

(a) IN GENERAL.—A telephone solicitor shall maintain a list of consumers who request not to receive telephone sales calls from that particular telephone solicitor.

(b) PROCEDURE.—If a consumer receives a telephone sales call and requests to be placed on the do not call list of that telephone solicitor, the solicitor shall—

(1) place the consumer on the no call list of the solicitor; and

(2) provide the consumer with a confirmation number which shall provide confirmation of the request of the consumer to be placed on the no call list of that telephone solicitor.

SEC. 5. TELEPHONE SOLICITATIONS.

(a) TELEPHONE SALES CALL.—A telephone solicitor may not make or cause to be made a telephone sales call to a consumer—

(1) if the name and telephone number of the consumer appear in the then current quarterly lists made available by the Commission under section 3;

(2) if the consumer previously requested to be placed on the do not call list of the telephone solicitor pursuant to section 4;

(3) to be received between the hours of nine o'clock p.m. and nine o'clock a.m. and between five o'clock p.m. and seven o'clock p.m., local time, at the location of the consumer;

(4) in the form of an electronically transmitted facsimile; or

(5) by use of an automated dialing or recorded message device.

(b) CALLER IDENTIFICATION DEVICE.—A telephone solicitor shall not knowingly use any method to block or otherwise circumvent the use of a caller identification service or device by a consumer.

(c) SALE OF CONSUMER INFORMATION TO TELEPHONE SOLICITORS.—

(1) IN GENERAL.—A person who obtains the name, residential address, or telephone number of a consumer from a published telephone directory or from any other source and republishes or compiles that information, electronically or otherwise, and sells or offers to sell that publication or compilation to a telephone solicitor for marketing or sales solicitation purposes, shall exclude from that publication or compilation, and from the database used to prepare that publication or compilation, the name, address, and telephone number of a consumer if the name and telephone number of the consumer appear in the then current quarterly list made available by the Commission under section 3.

(2) EXCEPTION.—This subsection does not apply to a publisher of a telephone directory when a consumer is called for the sole purpose of compiling, publishing, or distributing a telephone directory intended for use by the general public.

SEC. 6. REGULATIONS.

The Chairman may adopt regulations to carry out this Act that shall include—

(1) provisions governing the availability and distribution of the lists established under section 3;

(2) notice requirements for a consumer who requests to be included on the lists established under section 3; and

(3) a schedule for the payment of fees to be paid by a person who requests a list made available under section 3.

SEC. 7. CIVIL CAUSE OF ACTION.

(a) ACTION BY COMMISSION.—

(1) UNFAIR OR DECEPTIVE TRADE PRACTICE.—A violation of section 4 or 5 is an unfair or deceptive trade practice under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(2) CUMULATIVE DAMAGES.—In a civil action brought by the Commission under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to recover damages arising from more than one alleged violation, the damages shall be cumulative.

(b) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—A person or entity may, if otherwise permitted by the laws or the rules of court of a State, bring in an appropriate court of that State—

(A) an action based on a violation of section 4, 5, or 6 to enjoin the violation;

(B) an action to recover for actual monetary loss from a violation of section 4, 5, or 6, or to receive $500 in damages for each violation, whichever is greater; or

(C) an action under paragraphs (1) and (2).

(2) WILLFUL VIOLATION.—If the court finds that the defendant willfully or knowingly violated section 4, 5, or 6, the court may, in the discretion of the court, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph (1)(B) of this subsection and to include reasonable attorney's fees.

SEC. 8. EFFECT ON STATE LAW.

Nothing in this Act shall be construed to prohibit a State from enacting or enforcing more stringent legislation in the regulation of telephone solicitors.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the provisions of this Act.

By Mr. WELLSTONE (for himself, Mr. DEWINE; Mr. DAYTON, Mr. SPECTER, Mr. BAYH, Ms. MIKULSKI, and Mr. VOINOVICH):

S. 1884. A bill to amend the Emergency Steel Loan Guarantee Act of 1999 to revise eligibility and other requirements for loan guarantees under that Act, and for other purposes; to the Committee on Appropriations.

Mr. WELLSTONE. Mr. President, today I introduce, on behalf of myself and Senators DEWINE, DAYTON, SPECTER, MUKULSKI and BAYH the ''Emergency Steel Loan Guarantee Amendments of 2001.'' These amendments to the Steel Loan Guarantee Act of 1999 are designed to make the loan guarantee program more accessible to companies in urgent need of assistance as they attempt to recover from the devastating impacts of enormous, unfair import surges, as well as the effects of the current recession.

A strong domestic steel industry is essential to our national security. To ensure the continuing viability of this critical industry and to deal with the current crisis, we must act quickly, and we must act comprehensively.

First, the Administration must provide immediate and decisive strong relief in the pending Section 201 steel import surge investigation. That relief needs to include substantial tariffs as well as quotas.

Second, we need a formula for industry-wide sharing of the huge retiree health-care cost burdens resulting from the massive layoffs during the 1970's and 1980's. We must protect retirees health care needs without undermining the ability of companies attempting to compete in an increasingly challenging marketplace. Several colleagues and I have previously introduced legislation to accomplish this, and we have urged the Administration to support us in this effort as past of a comprehensive solution to the steel crisis we face today.

Finally, companies urgently need access to capital to sustain their operations. This is precisely what the Emergency Steel Loan Guarantee Act of 1999 was designed to insure. The tireless efforts and foresight of Senator BYRD led to the creation of the Emergency Steel Loan Guarantee Board in 1999, but since then massive import surges, the current economic downturn and apparently overly-restrictive interpretations of the Board's authority have made it all but impossible for struggling steel firms to meet the Board's eligibility criteria.

The bill we introduce today is designed to address these concerns. It provides the Board with the necessary flexibility to provide these essential loan guarantees. In particular, the bill would do the following: 1. Clarify that a company that has placed its facilities on ''hot idle status'' is eligible to receive a loan guarantee. 2. Increase the amount of loans guaranteed with respect to a single qualified steel company to $350,000,000. 3. Permit the Steel Loan Guarantee Board to guarantee a loan where there is a fair likelihood of repayment, assuming vigorous and timely enforcement of our trade laws and general economic prosperity. 4. Provide flexibility to the Board in structuring security arrangements to maximize participation of lenders. 5. Expand the scope of lenders permitted to participate in a loan subject to the guarantee to include public and private institutions, including the company's existing lenders. 6. Require the Board to adopt form of guarantee regulations no less favorable than those used in other government programs, including the Export-Import bank. 7. Include as a requirement for loan guarantees that the company's business plan maximize both retention of jobs and capacity consistent with the long-term economic viability of the company. 8. Increase the loan guarantee level for all loans to 95 percent.

The recent economic conditions facing the U.S. iron ore and steel industry are of particular concern in Minnesota. We are extremely proud of our State's history as the Nation's largest producer of iron ore. The taconite mines on the Iron Range in Minnesota and in our sister State of Michigan have provided key raw materials to the Nation's steel producers for over a century.

You will not find a harder-working, more committed group of workers anywhere in this country than you find in the iron ore and taconite industry. This is a group of people who work under the toughest of conditions, are absolutely committed to their families, and who now face dire circumstances, through no fault of their own. Unfairly traded iron ore, semi-finished steel and finished steel products are taking their jobs.

Earlier this year, LTV Steel Mining Company halted production at its Hoyt Lakes, MN mine, leaving 1,400 workers out of good paying jobs and affecting nearly 5,000 additional workers. We need to act and we need to act now. Workers in the steel, iron ore and taconite industries want nothing more than the chance to do their jobs. The bill we introduce today is one part of the answer. I urge my colleagues to join with me in moving this legislation as quickly as possible.

Mr. DEWINE. Mr. President, I rise today with my colleague and friend from Minnesota, Senator WELLSTONE, to introduce the Emergency Steel Loan Guarantee Amendments Act. This legislation would improve the Emergency Steel Loan Guarantee program.

Our steel industry is on the brink of financial collapse because of unfair and illegal trade practices. To date, some 25 U.S. steel companies, including LTV Steel in Cleveland, Ohio, have filed bankruptcy. These companies employ thousands of workers and are responsible for providing benefits to their retirees. If our steel industry goes under, the consequences to our nation, and particularly Ohio, would be grave. Steel is vitally important to our military and economic security. During times of crisis, the industry has been a source of strength for America. With our economy sputtering and our nation fighting a new war on terrorism, we need a healthy steel industry now more than ever.

In 1998, more than 41 million tons of steel found their way to U.S. markets. This was an 83 percent increase over the 23 million net ton average for the previous eight years. While in 1999 some claimed that the steel import crisis was over, they were soon reminded how volatile the situation really is. In 2000, 37.8 million tons of steel flooded U.S. markets. This was almost as high as the record 1998 import levels.

For almost 50 years, foreign steel producers have received direct and often illegal assistance from their governments in the form of subsidies or market intervention. This has contributed to a worldwide over production of steel. In 1999, the Organization for Economic Cooperation and Development, OECD, found that world steel making capacity remained ''well-above'' production between 1985 and 1999. Much of this excess steel has been shipped to the United States and priced well below U.S. steel. In some cases, these imports were dumped, subsidized, and shipped in such increased quantities as to inflict serious financial harm to U.S. producers.

As a key supporter of the Emergency Steel Loan Guarantee program, I believe that we must modify the program to make it work better. It is true that we have changed it this year; extending its life and increasing the portion of the loan covered by the guarantee from 85 percent to in some cases 95 percent. However, we need to do more. The Wellstone/DeWine legislation would clarify that a company, such as LTV, which has placed its facilities on ''hot idle status'' is eligible to receive a loan guarantee. It would also increase the amount of loans guaranteed with respect to a single qualified steel company to $350,000,000; permit the Steel Loan Guarantee Board to guarantee a loan where there is a fair likelihood of repayment, assuming vigorous and timely enforcement of our trade laws and general economic prosperity; provide flexibility to the Board in structuring security arrangements to maximize participation of lenders; expand the scope of lenders permitted to participate in a loan subject to the guarantee to include public and private institutions, including the company's existing lenders; require the Board to adopt a form of guarantee regulations no less favorable than those used in other government programs, including the Export-Import bank, and; increase the loan guarantee level for all loans to 95 percent.

We in the steel community are grateful for the President's leadership in initiating the Section 201 trade investigation, and we were generally pleased with the International Trade Commission's recommendations. I was pleased to see the Customs Service proceeding in a timely manner with the release of dumping and subsidy offset payments to the victims of illegal trade practices, including LTV, under the Continued Dumping and Subsidy Offset Act. However, without these changes to the Emergency Steel Loan program, many of our steel companies will not survive. We have an opportunity to send a powerful message to the world that America is standing by our steel industry in its time of need just as the industry has stood by America in her time of need.

By Mr. DODD:

S. 1885. A bill to establish the elderly housing plus health support demonstration program to modernize public housing for elderly and disabled persons; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 1886. A bill to amend the Internal Revenue Code of 1986 to allow a business credit for supported elderly housing; to the Committee on Finance.

Mr. DODD. Mr. President, I rise today to introduce two bills that will help address a growing problem in America, our ability to provide safe and affordable housing that meets the needs of older Americans. Currently there are 35 million Americans over 65 years old. That number will double within the next thirty years. By 2030, 20 percent of the U.S. population will be over 65 years old.

Both of the bills that I am introducing will promote the development of assisted living programs to provide a wide range of services, including medical assistance, housekeeping services, hygiene and grooming, and meals preparation. Providing these services will in turn give older Americans greater opportunities to decide for themselves where they live and how they exercise their independence.

The first bill I am introducing is the ''Elderly Plus Supportive Health Support Demonstration Act,'' which will provide Federal grants to allow public housing authorities around the country to develop new strategies for providing better housing for senior citizens. Nearly one third of all public housing units are occupied by senior citizens. This figure has been steadily growing in recent years and will undoubtedly continue to grow in the future. It is critically important that we remain committed to providing low-income seniors with safe and affordable housing.

Unfortunately, as we examine the public housing stock across the country, we find a bleak situation. Over 66 percent of existing public housing units are more than 30 years old and most are not designed to meet the needs of older Americans. For example, too few of our housing units are equipped with equipment and features that facilitate mobility for those in wheelchairs. Even such simple things as having a kitchen counter top that can be reached from a wheelchair may make the difference between a senior being able to stay in her home or having to leave, often to be sent to an institution where seniors have less independence and control over their lives. The ''Elder Housing Plus Health Support Demonstration Act'' will give public housing authorities the tools they need to improve our public housing stock so our seniors will not be prematurely forced out of their homes.

The second bill that I am introducing is the ''Assisted Living Tax Credit Act,'' which will provide a tax incentive to help construct assisted living housing for low- and moderate-income Americans. The current stock of assisted living facilities is inadequate to meet demand in certain places around the country and the stock of moderately-priced units is even tighter. The demand for assisted living units will only increase as our population ages and this highly desired housing choice should be available to all Americans. The ''Assisted Living Tax Credit Act'' will help make assisted living arrangements available to those who have previously been priced out of the market.

The scarceness of affordable assisted living units has social costs that we

must consider as we set national housing policies for the future. Often, the cost of taking care of an aging family member can be devastating to American families. Too often, working men and women are torn between the need to maintain their jobs and the desire to provide the best possible care to their aging family members.

Advances in medicine are allowing us to live longer, healthier lives. Longevity is a great blessing, but it also poses significant challenges for individuals, families, and society as whole. One of the largest challenges we will face in the decades ahead is the challenge of defining new kinds of housing that respond to the needs of our growing elderly population.

It is my hope that the bills I am introducing today will generate earnest discussion on these important matters and will ultimately lead to action to ensure that every American senior can live in security and dignity.

I ask unanimous consent that the text of the ''Elderly Housing Plus Health Support Demonstration Act'' be printed in the RECORD. I also ask unanimous consent that the ''Assisted Living Tax Credit Act'' be printed in the RECORD.

S. 1885

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

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 ''Elderly Housing Plus Health Support Demonstration Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are not fewer than 34,100,000 Americans who are 65 years of age and older, and persons who are 85 years of age or older comprise almost one-quarter of that population;

(2) the Bureau of the Census of the Department of Commerce estimates that, by 2030, the elderly population will double to 70,000,000 persons;

(3) according to the Department of Housing and Urban Development report ''Housing Our Elders—A Report Card on the Housing Conditions and Needs of Older Americans'', the largest and fastest growing segments of the older population include many people who have historically been vulnerable economically and in the housing market—women, minorities, and people over the age of 85;

(4) many elderly persons are at significant risk with respect to the availability, stability, and accessibility of affordable housing;

(5) one third of public housing residents are approximately 62 years of age or older, making public housing the largest Federal housing program for senior citizens;

(6) the elderly population residing in public housing is older, poorer, frailer, and more racially diverse than the elderly population residing in other assisted housing;

(7) two-thirds of the public housing developments for the elderly, including those that also serve the disabled, were constructed before 1970 and are in dire need of major rehabilitation and reconfiguration, such as rehabilitation to provide new roofs, energy-efficient heating, cooling, utility systems, accessible units, and up-to-date safety features;

(8) many of the dwelling units in public housing developments for elderly and disabled persons are undersized, are inaccessible to residents with physical limitations, do not comply with the requirements under the Americans with Disabilities Act of 1990, or lack railings, grab bars, emergency call buttons, and wheelchair accessible ramps;

(9) a study conducted for the Department of Housing and Urban Development found that the cost of the basic modernization needs for public housing for elderly and disabled persons exceeds $5,700,000,000;

(10) a growing number of elderly and disabled persons face unnecessary institutionalization because of the absence of appropriate supportive services and assisted living facilities in their residences;

(11) for many elderly and disabled persons, independent living in a non-institutionalization setting is a preferable housing alternative to costly institutionalization, and would allow public monies to be more effectively used to provide necessary services for such persons;

(12) congregate housing and supportive services coordinated by service coordinators is a proven and cost-effective means of enabling elderly and disabled persons to remain in place with dignity and independence; and

(13) the effective provision of congregate services and assisted living in public housing developments requires the redesign of units and buildings to accommodate independent living.

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

(1) to establish a demonstration program to make competitive grants to provide state-of-the-art health-supportive housing with assisted living opportunities for elderly and disabled persons;

(2) to provide funding to enhance, make safe and accessible, and extend the useful life of public housing developments for the elderly and disabled and to increase their accessibility to supportive services;

(3) to provide elderly and disabled public housing residents a readily available choice in living arrangements by utilizing the services of service coordinators and providing a continuum of care that allows such residents to age in place;

(4) to incorporate congregate housing service programs more fully into public housing operations; and

(5) to accomplish such purposes and provide such funding under existing provisions of law that currently authorize all activities to be conducted under the program.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELDERLY AND DISABLED FAMILIES.—The term ''elderly and disabled families'' means families in which 1 or more persons is an elderly person or a person with disabilities.

(2) ELDERLY PERSON.—The term ''elderly person'' means a person who is 62 years of age or older.

(3) PERSON WITH DISABILITIES.—The term ''person with disabilities'' has the same meaning as in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)).

(4) PUBLIC HOUSING AGENCY.—The term ''public housing agency'' has the same meaning as in section 3(b)(6)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)(A)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 4. AUTHORITY FOR ELDERLY HOUSING PLUS HEALTH SUPPORT PROGRAM.

The Secretary shall establish an elderly housing plus health support demonstration program (referred to in this Act as the ''demonstration program'') in accordance with this Act to provide coordinated funding to public housing projects for elderly and disabled families selected for participation under section 5, to be used for—

(1) rehabilitation or reconfiguration of such projects;

(2) the provision of space in such projects for supportive services and community and health facilities;

(3) the provision of service coordinators for such projects; and

(4) the provision of congregate services programs in or near such projects.

SEC. 5. PARTICIPATION IN PROGRAM.

(a) APPLICATION AND PLAN.—To be eligible to be selected for participation in the demonstration program, a public housing agency shall submit to the Secretary—

(1) an application, in such form and manner as the Secretary shall require; and

(2) a plan for the agency that—

(A) identifies the public housing projects for which amounts provided under this Act will be used, limited to projects that are designated or otherwise used for occupancy—

(i) only by elderly families; or

(ii) by both elderly families and disabled families; and

(B) provides for local agencies or organizations to establish or expand the provision of health-related services or other services that will enhance living conditions for residents of public housing projects of the agency, primarily in the project or projects to be assisted under the plan.

(b) SELECTION AND CRITERIA.—

(1) SELECTION.—The Secretary shall select public housing agencies for participation in the demonstration program based upon a competition among public housing agencies that submit applications for participation.

(2) CRITERIA.—The competition referred to in paragraph (1) shall be based upon—

(A) the extent of the need for rehabilitation or reconfiguration of the public housing projects of an agency that are identified in the plan of the agency pursuant to subsection (a)(2)(A);

(B) the past performance of an agency in serving the needs of elderly public housing residents or non-elderly, disabled public housing residents given the opportunities in the locality;

(C) the past success of an agency in obtaining non-public housing resources to assist such residents given the opportunities in the locality; and

(D) the effectiveness of the plan of an agency in creating or expanding services described in subsection (a)(2)(B).

SEC. 6. CONFIGURATION AND CAPITAL IMPROVEMENTS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to public housing agencies selected for participation under section 5, to be used only—

(A) for capital improvements to rehabilitate or reconfigure public housing projects identified in the plan submitted under section 5(a)(2)(A); and

(B) to provide space for supportive services and for community and health-related facilities primarily for the residents of projects identified in the plan submitted under section 5(a)(2)(A).

(2) SOURCE OF FUNDS.—Grants shall be made under this section from funds made available for the demonstration program in accordance with subsection (c).

(3) INAPPLICABILITY OF OTHER PROVISIONS.—Section 9(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)(1)) does not apply to grants made under this section.

(b) ALLOCATION.—Grants funded in accordance with this section shall—

(1) be allocated among public housing agencies selected for participation under section 5 on the basis of the criteria established under section 5(b)(2); and

(2) be made in such amounts and subject to such terms as the Secretary shall determine.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the demonstration program, to make grants in accordance with this section—

(1) $100,000,000 for fiscal year 2002; and

(2) such sums as may be necessary for fiscal year 2003 and each subsequent fiscal year.

SEC. 7. SERVICE COORDINATORS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to public housing agencies selected for participation under section 5, to be used only—

(A) for public housing projects for elderly and disabled families for whom capital assistance is provided under section 6; and

(B) to provide service coordinators and related activities identified in the plan of the agency pursuant to section 5(a)(2), so that the residents of such public housing projects will have improved and more economical access to services that support the health and well-being of the residents.

(2) SOURCE OF FUNDS.—Grants shall be made under this section from funds made available for the demonstration program in accordance with subsection (c).

(3) INAPPLICABILITY OF OTHER PROVISIONS.—Section 9(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)(1)) does not apply to grants made under this section.

(b) ALLOCATION.—The Secretary shall provide a grant pursuant to this section, in an amount not to exceed $100,000, to each public housing agency that is selected for participation under section 5.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the demonstration program, to make grants in accordance with this section—

(1) $2,000,000 for fiscal year 2002; and

(2) such sums as may be necessary for fiscal year 2003 and each subsequent fiscal year.

SEC. 8. CONGREGATE HOUSING SERVICES PROGRAMS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to public housing agencies selected for participation under section 5, to be used only—

(A) in connection with public housing projects for elderly and disabled families for which capital assistance is provided under section 6; and

(B) to carry out a congregate housing service program identified in the plan of the agency pursuant to section 5(a)(2) that provides services as described in section 202(g)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(g)(1)).

(2) SOURCE OF FUNDS.—Grants shall be made under this section from funds made available for the demonstration program in accordance with subsection (c).

(3) INAPPLICABILITY OF OTHER PROVISIONS.—Other than as specifically provided in this section—

(A) section 9(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)(1)) does not apply to grants made under this section; and

(B) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) does not apply to grants made under this section.

(b) ALLOCATION.—The Secretary shall provide a grant pursuant to this section, in an amount not to exceed $150,000, to each public housing agency that is selected for participation under section 5.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the demonstration program, to make grants in accordance with this section—

(1) $3,000,000 for fiscal year 2003; and

(2) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.

SEC. 9. SAFEGUARDING OTHER APPROPRIATIONS.

Amounts authorized to be appropriated under this Act to carry out this Act are in addition to any amounts authorized to be appropriated under any other provision of law, or otherwise made available in appropriations Acts, for rehabilitation of public housing projects, for service coordinators for public housing projects, or for congregate housing services programs.

S. 1886

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 ''Assisted Living Tax Credit Act''.

SEC. 2. SUPPORTED ELDERLY HOUSING CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

SEC. 42A. SUPPORTED ELDERLY HOUSING CREDIT.

''(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the supported elderly housing credit determined under this section for any taxable year in the credit period shall be an amount equal to the sum of—

''(A) 9 percent of the qualified basis of each qualified supported elderly building, plus

''(B) 4 percent of such qualified basis with respect to any qualified supported elderly building providing qualified supported elderly services.

''(b) QUALIFIED BASIS; QUALIFIED SUPPORTED ELDERLY BUILDING; CREDIT PERIOD.—For purposes of this section—

''(1) QUALIFIED BASIS.—

''(A) DETERMINATION.—The qualified basis of any qualified supported elderly building for any taxable year is an amount equal to—

''(i) the applicable fraction (determined as of the close of such taxable year) of

''(ii) the eligible basis of such building (determined under rules similar to the rules under section 42(d)).

''(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the term 'applicable fraction' means the smaller of the unit fraction or the floor space fraction.

''(C) UNIT FRACTION.—For purposes of subparagraph (B), the term 'unit fraction' means the fraction—

''(i) the numerator of which is the number of supported elderly units in the building, and

''(ii) the denominator of which is the number of residential rental units (whether or not occupied) in such building.

''(D) FLOOR SPACE FRACTION.—For purposes of subparagraph (B), the term 'floor space fraction' means the fraction—

''(i) the numerator of which is the total floor space of the supported elderly units in such building, and

''(ii) the denominator of which is the total floor space of the residential rental units (whether or not occupied) in such building.

''(E) QUALIFIED BASIS TO INCLUDE PORTION OF BUILDING USED TO PROVIDE QUALIFIED SUPPORTED ELDERLY SERVICES.—In the case of a qualified supported elderly building described in subsection (a)(2), the qualified basis of such building for any taxable year shall be increased by the less of—

''(i) so much of the eligible basis of such building as is used through the year to provide qualified support elderly services, or

''(ii) 20 percent of the qualified basis of such building (determined without regard to this subparagraph).

''(2) QUALIFIED SUPPORTED ELDERLY BUILDING.—The term 'qualified supported elderly building' means any building which is part of a qualified supported elderly housing project at all times during the period—

''(A) beginning on the 1st day in the compliance period on which such building is part of such a project, and

''(B) ending on the last day of the compliance period with respect to such building.

Such term does not include any building with respect to which moderate rehabilitation assistance is provided, at any time during the compliance period, under section 8(e)(2) of the United States Housing Act of 1937 (other than assistance under the Stewart B. McKinney Homeless Assistance Act (as in effect on the date of the enactment of this sentence)).

''(3) CREDIT PERIOD.—The term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with—

''(A) the taxable year in which the building is placed in service, or

''(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified supported elderly building as of the close of the 1st year of such period. The election under subparagraph (B), once made, shall be irrevocable.

''(4) APPLICABLE RULES.—

''(A) For treatment of certain rehabilitation expenditures as separate new buildings, subsection (e) of section 42 shall apply.

''(B) For rules regarding the application of the credit period, paragraph (2) through (5) of section 42(f) shall apply.

''(c) QUALIFIED SUPPORTED ELDERLY HOUSING PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified supported elderly housing project' means any project for residential rental property if the project meets the requirements of subparagraph (A) or (B) whichever is elected by the taxpayer:

''(A) 20–50 TEST.—The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

''(B) 40–90 TEST.—The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 90 percent or less of area median gross income.

Any election under this paragraph, once made, shall be irrevocable. For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

''(2) RENT-RESTRICTED UNITS.—

''(A) IN GENERAL.—For purposes of paragraph (1), a residential unit is rent-restricted if the gross rent with respect to such unit does not exceed 65 percent of the imputed income limitation applicable to such unit. For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified supported elderly housing project.

''(B) GROSS RENT.—For purposes of subparagraph (A), gross rent—

''(i) includes any fee for a qualified supported elderly service which is paid to the

owner of the unit (on the basis of the supported elderly status of the tenant of the unit) by any governmental program of assistance (or by an organization described in section 501(c)(3) and exempt from tax under section 501(a)) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services.

''(ii) does not include any payment under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such unit or occupants thereof),

''(iii) includes any utility allowance determined by the Secretary after taking into account such determinations under section 8 of the United States Housing Act of 1937, and

''(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949.

''(C) IMPUTED INCOME LIMITATION APPLICABLE TO UNIT.—For purposes of this paragraph, the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

''(i) In the case of a unit which does not have a separate bedroom, 1 individual.

''(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7), the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)(B)(ii).

''(D) TREATMENT OF UNITS OCCUPIED BY INDIVIDUALS WHOSE INCOMES RISE ABOVE LIMIT.—

''(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding an increase in the income of occupants of a supported elderly unit above the income limitation applicable under paragraph (1), such unit shall continue to be treated as a supported elderly unit if the income of such occupants initially met such income limitation and such unit continues to be rent restricted.

''(ii) NEXT AVAILABLE UNIT MUST BE RENTED TO SUPPORTED ELDERLY TENANT IF INCOME RISES ABOVE 140 PERCENT OF INCOME LIMIT.—If the income of the occupants of the unit increases above 140 percent of the income limitation applicable under paragraph (1), clause (i) shall cease to apply to such unit if any residential rental unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation. In the case of a project described in section 142(d)(4)(B), the preceding sentence shall be applied by substituting '170 percent' for '140 percent' and by substituting 'any supported elderly unit in the building is occupied by a new resident whose income exceeds 40 percent of area median gross income' for 'any residential unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation'.

''(E) UNITS WHERE FEDERAL RENTAL ASSISTANCE IS REDUCED AS TENANT'S INCOME INCREASES.—If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

''(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

''(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

''(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

''(II) such units were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made.

''(3) QUALIFIED SUPPORTED ELDERLY SERVICE.—The term 'qualified supported elderly service' means any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped. In the case of a single-room occupancy unit or a building described in subsection (h)(2)(B)(iii), such term includes any service provided to assist tenants in locating and retaining permanent housing.

''(4) DATE FOR MEETING REQUIRMENTS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, a building shall be treated as a qualified supported elderly building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 1st year of the credit period for such building.

''(B) BUILDINGS WHICH RELY ON LATER BUILDINGS FOR QUALIFICATION.—

''(i) IN GENERAL.—In determining whether a building (in this subparagraph referred to as the 'prior building') is a qualified supported elderly building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

''(ii) TREATMENT OF ELECTED BUILDINGS.—In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

''(iii) DATE PRIOR BUILDING IS TREATED AS PLACED IN SERVICE.—For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

''(C) SPECIAL RULE.—A building—

''(i) other than the 1st building placed in service as part of a project, and

(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with the respect to a prior building which becomes a qualified supported elderly building,

shall in no event be treated as a qualified supported elderly building unless the project is a qualified supported elderly housing project (without regard to such building) on the date such building is placed in service.

''(D) PROJECTS WITH MORE THAN 1 BUILDING MUST BE IDENTIFIED.—For purposes of this section a project shall be treated as consisting of only 1 building unless, before the close of the 1st calendar year in the project period (as defined in subsection (d)(1)(F)(ii)), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide.

''(5) CERTAIN RULES MADE APPLICABLE.—Paragraphs (2) (other than subparagraph (A) thereof), (3), (4), (5), (6), and (7) of section 142(d), and section 6652(j), shall apply for purposes of determining whether any project is a qualified supported elderly housing project and whether any unit is a supported elderly unit; except that, in applying such provisions for such purposes, the term 'gross rent' shall have the meaning given such term by paragraph (2)(B) of this subsection.

''(6) ELECTION TO TREAT BUILDING AFTER COMPLIANCE PERIOD AS NOT PART OF A PROJECT.—For purposes of this section, the taxpayer may elect to treat any building as not part of a qualified supported elderly housing project for any period beginning after the compliance period for such building.

''(7) SPECIAL RULE WHERE DE MINIMIS EQUITY CONTRIBUTION.—Proeprty shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if—

''(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

''(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted.

''(8) SCATTERED SITE PROJECTS.—Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2)) residential rental units.

''(9) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

''(A) any recapture under subsection (i) in the case of any de minimis error in complying with paragraph (1), or

''(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by supported elderly tenants.

''(d) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO PROJECTS LOCATED IN A STATE.—

''(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the supported elderly housing credit dollar amount allocated to such building under rules similar to the rules of paragraph (1) of section 42(h).

''(2) ALLOCATED CREDIT AMOUNT TO APPLY TO ALL TAXABLE YEARS ENDING DURING OR AFTER CREDIT ALLOCATION YEAR.—Any supported elderly housing credit dollar amount allocated to any building for any calendar year—

''(A) shall apply to such building for all taxable years in the compliance period ending during or after such calendar year, and

''(B) shall reduce the aggregate supported elderly housing credit dollar amount of the allocating agency only for such calendar year.

''(3) SUPPORTED ELDERLY HOUSING CREDIT DOLLAR AMOUNT FOR AGENCIES.—

''(A) IN GENERAL.—The aggregate supported elderly housing credit dollar amount which a

supported elderly housing credit agency may allocate for any calendar year is the portion of the State supported elderly housing credit ceiling allocated under this paragraph for such calendar year to such agency.

''(B) STATE CEILING INITIALLY ALLOCATED TO STATE SUPPORTED ELDERLY HOUSING CREDIT AGENCIES.—Except as provided in subparagraphs (D) and (E), the State supported elderly housing credit ceiling for each calendar year shall be allocated to the supported elderly housing credit agency of such State. If there is more than 1 supported elderly housing credit agency of a State, all such agencies shall be treated as a single agency.

''(C) STATE SUPPORTED ELDERLY HOUSING CREDIT CEILING.—The State supported elderly housing credit ceiling applicable to any State and any calendar year shall be an amount equal to the sum of—

''(i) the unused State supported elderly housing credit ceiling (if any) of such State for the preceding calendar year,

''(ii) $1.25 multiplied by the State population,

''(iii) the amount of State supported elderly housing credit ceiling returned in the calendar year, plus

''(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State supported elderly housing credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (i) through (iv) over the aggregate supported elderly housing credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State supported elderly housing credit ceiling returned in the calendar year equals the supported elderly housing credit dollar amount previously allocated within the State to any project which fails to meet the 10 percent test under section 42(h)(1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified supported elderly housing project within the period required by this section or the terms of the allocation or to any project with respect to which an allocation is canceled by mutual consent of the supported elderly housing credit agency and the allocation recipient.

''(D) UNUSED SUPPORTED ELDERLY HOUSING CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

''(i) IN GENERAL.—The unused supported elderly housing credit carryover of a State for any calendar year shall be assigned to the secretary for allocation among qualified states for the succeeding calendar year.

''(ii) UNUSED SUPPORTED ELDERLY HOUSING CREDIT CARRYOVER.—For purposes of this subparagraph, the unused supported elderly housing credit carryover of a State for any calendar year is the excess (if any) of—

''(I) the unused State supported elderly housing credit ceiling for the year preceding such year, over

''(II) the aggregate supported elderly housing credit dollar amount allocated for such year.

''(iii) FORMULA FOR ALLOCATION OF UNUSED SUPPORTED ELDERLY HOUSING CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused supported elderly housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

''(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

''(I) which allocated its entire State supported elderly housing credit ceiling for the preceding calendar year; and

''(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

''(E) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—For purposes of this subsection—

''(i) IN GENERAL.—The aggregate supported elderly housing credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State supported elderly housing credit ceiling for such calendar year as—

''(I) the population of such city, bear to

''(II) the population of the entire State.

''(ii) COORDINATION WITH OTHER ALLOCATIONS.—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying this paragraph with respect to supported elderly housing credit agencies in such State other than constitutional home rule cities, the State supported elderly housing credit ceiling for any calendar year shall be reduced by the aggregate supported elderly housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

''(iii) CONSTITUTIONAL HOME RULE CITY.—For purposes of this paragraph, the term 'constitutional home rule city' has the meaning given such term by section 146(d)(3)(C).

''(F) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

''(G) POPULATION.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

''(4) CREDIT FOR BUILDINGS FINANCED BY TAX-EXEMPT BONDS SUBJECT TO VOLUME CAP NOT TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to the portion of any credit allowable under subsection (a) which is attributable to eligible basis financed by any obligation the interest on which is exempt from tax under section 103 if—

''(i) such obligation is taken into account under section 146, and

''(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing.

''(B) SPECIAL RULE WHERE 50 PERCENT OR MORE OF BUILDING IS FINANCED WITH TAX-EXEMPT BONDS SUBJECT TO VOLUME CAP.—For purposes of subparagraph (A), if 50 percent or more of the aggregate basis of any building and the land on which the building is located is financed by any obligation described in subparagraph (A), paragraph (1) shall not apply to any portion of the credit allowable under subsection (a) with respect to such building.

''(5) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—

''(A) IN GENERAL.—Not more than 90 percent of the State supported elderly housing credit ceiling for any State for any calendar year shall be allocated to projects other than qualified supported elderly housing projects described in subparagraph (B).

''(B) PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—For purposes of subparagraph (A), a qualified supported elderly housing project is described in this subparagraph if a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period.

''(C) QUALIFIED NONPROFIT ORGANIZATION.—For purposes of this paragraph, the term 'qualified nonprofit organization' means any organization if—

''(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a),

''(ii) such organization is determined by the State supported elderly housing credit agency not to be affiliated with or controlled by a for-profit organization; and

''(iii) 1 of the exempt purposes of such organization includes the fostering of supported elderly housing.

''(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

''(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

''(ii) QUALIFIED CORPORATION.—For purposes of clause (i), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

''(E) STATE MAY NOT OVERRIDE SETASIDE.—Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

''(6) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF MINIMUM LONG-TERM COMMITMENT TO SUPPORTED ELDERLY HOUSING.—

''(A) IN GENERAL.—Under rules similar to the rules under section 42(h)(6), no credit shall be allowed by reason of this section with respect to any building for the taxable year unless an extended supported elderly housing commitment is in effect as of the end of such taxable year.

''(B) EXTENDED SUPPORTED ELDERLY HOUSING COMMITMENT.—For purposes of this paragraph, the term 'extended supported elderly housing commitment' has the meaning given the term 'extended low-income housing commitment' under section 42(h)(6).

''(7) APPLICATION OF CERTAIN RULES.—For purposes of this section, rules similar to the rules of section 42(h)(7) shall apply.

''(8) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SUPPORTED ELDERLY HOUSING CREDIT AGENCY.—The term 'supported elderly housing credit agency' means any agency authorized to carry out this subsection.

''(B) POSSESSIONS TREATED AS STATES.—The term 'State' includes a possession of the United States.

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

''(1) COMPLIANCE PERIOD.—The term 'compliance period' means, with respect to any building, the period of 15 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

''(2) SUPPORTED ELDERLY UNIT.—

''(A) IN GENERAL.—The term 'supported elderly unit' means any unit in a building if—

''(i) such unit is rent-restricted (as defined in subsection (c)(2)), and

''(ii) the individuals occupying such unit meet the income limitation applicable under subsection (c)(1) to the project of which such building is a part.

''(B) EXCEPTION.—

''(i) IN GENERAL.—A unit shall not be treated as a supported elderly unit unless the unit

is suitable for occupancy and used other than on a transient basis.

''(ii) SUITABILITY FOR OCCUPANCY.—For purposes of clause (i), the suitability of a unit for occupancy shall be determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes.

''(iii) TRANSITIONAL HOUSING FOR HOMELESS.—For purposes of clause (i), a unit shall be considered to be used other than on a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building—

''(I) which is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on the date of the enactment of this clause) to independent living within 24 months, and

''(II) in which a governmental entity or qualified nonprofit organization (as defined in subsection (d)(5)(C)) provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

''(iv) SINGLE-ROOM OCCUPANCY UNITS.—For purposes of clause (i), a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis.

''(C) SPECIAL RULE FOR BUILDINGS HAVING 4 OR FEWER UNITS.—In the case of any building which has 4 or fewer residential rental units, no unit in such building shall be treated as a supported elderly unit if the units in such building are owned by—

''(i) any individual who occupies a residential unit in such building, or

''(ii) any person who is related (within the meaning of section 42(d)(2)(D)(iii)) to such individual.

''(D) OWNER-OCCUPIED BUILDING HAVING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT WHERE DEVELOPMENT PLAN.—

''(i) IN GENERAL.—Subparagraph (C) shall not apply to the acquisition or rehabilitation of a building pursuant to a development plan of action sponsored by a State or local government or a qualified nonprofit organization (as defined in subsection (d)(5)(C)).

''(ii) LIMITATION ON CREDIT.—In the case of a building to which clause (i) applies, the applicable fraction shall not exceed 80 percent of the unit fraction.

''(iii) CERTAIN UNRENTED UNITS TREATED AS OWNER-OCCUPIED.—In the case of a building to which clause (i) applies, any unit which is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the 1st day it is not rented.

''(3) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (i) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

''(4) IMPACT OF TENANTS RIGHT OF 1ST REFUSAL TO ACQUIRE PROPERTY.—

''(A) IN GENERAL.—No Federal income tax benefit shall fail to be allowable to the taxpayer with respect to any qualified supported elderly building merely by reason of a right of 1st refusal held by the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (d)(5)(C)) or government agency to purchase the property after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B).

''(B) MINIMUM PURCHASE PRICE.—For purposes of subparagraph (A), the minimum purchase price under this subparagraph is an amount equal to the sum of—

''(i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale to the tenants), and

''(ii) all Federal, State, and local taxes attributable to such sale.

Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii).

''(f) RECAPTURE OF CREDIT.—

''(1) IN GENERAL.—If—

''(A) as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than.

''(B) the amount of such basis as of the close of the preceding taxable year,

then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount determined under rules similar to the rules of section 42(j).

''(g) APPLICATION OF AT-RISK RULES.—For purposes of this section, rules similar to the rules of section 42(k) shall apply.

''(h) RESPONSIBILITIES OF TAXPAYERS AND SUPPORTED ELDERLY HOUSING CREDIT AGENCIES.—For purposes of this section, subsections (l) and (m) of section 42 shall apply.

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

''(1) dealing with—

''(A) projects which include more than 1 building or only a portion of a building,

''(B) buildings which are placed in service in portions,

''(2) providing for the application of this section to short taxable years,

''(3) preventing the avoidance of the rules of this section, and

''(4) providing the opportunity for supported elderly housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.''.

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following:

''(14) the supported elderly housing credit determined under section 42A(a).''.

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(10) NO CARRYBACK OF SUPPORTED ELDERLY HOUSING CREDIT BEFORE EFFECTIVE DATE.—No amount of unused business credit available under section 42A may be carried back to a taxable year beginning on or before the date of the enactment of this paragraph.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 55(c)(1) of the Internal Revenue Code of 1986 is amended by inserting ''or subsection (f) or (g) of section 42A'' after ''section 42''.

(2) Subsections (i)(c)(3), (i)(c)(6)(B)(i), and (k)(1) of section 469 of such Code are each amended by inserting ''or 42A'' after ''section 42''.

(3) Section 772(a) of such Code is amended by striking ''and'' at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

''(11) the supported elderly housing credit determined under section 42A, and''.

(4) Section 774(b)(4) of such Code is amended by inserting '', 42A(f),'' after ''section 42(j)''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 42 the following:

''Sec. 42A. Supported elderly housing credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

By Ms. SNOWE:

S. 1887. A bill to provide for renewal of project-based assisted housing contracts at reimbursement levels that are sufficient to sustain operations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. SNOWE. Mr. President, I rise today to introduce legislation intended to correct serious inequities created by existing statutes affecting owners, financing agencies, and low-income residents participating in one of HUD's Section 8 multifamily rental subsidy programs.

I have worked closely with the Maine Congressional Delegation on this matter, as well as the Maine State Housing Authority and several housing projects in Maine, and the U.S. Department of Housing and Urban Development—HUD. At issue is HUD's interpretation of Section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 as it relates to the renewal of Section 8 ''moderate rehabilitation'' contracts in Maine and elsewhere.

The effect of HUD's interpretation of current law results in the application of HUD ''published Fair Market Rents.'' Such rents are often well below the actual comparable market rent. If this problem is not addressed, and addressed soon, I am very concerned that we could lose this affordable rental housing stock in Maine, resulting in the displacement of the residents of these properties.

The Maine Delegation worked with HUD over the last year to try to identify an administrative solution to this problem, but have been advised by HUD that we must pursue a change in law to enable the projects to obtain reimbursements at a level sufficient to sustain operations. Accordingly, the legislation I am introducing today will correct the portion of the statute that could result in the loss of this critical housing stock.

The program involved is the Section 8 Moderate Rehabilitation program, which is administered by local and state housing agencies throughout the nation. Existing law, contained in Section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, as amended—MAHRA—regarding renewal of expiring project-based Section 8 contracts, treats contracts under the Moderate Rehabilitation

Program in a fundamentally different way from contracts under the New Construction, Substantial Rehabilitation, and Loan Management Set-Aside programs.

Section 524(b)(3) of MAHRA provides a separate and distinct formula for calculating renewal rents for expiring contracts under the Moderate Rehabilitation program. The formula is more restrictive than the formula applicable to expiring contracts under other Section 8 programs, based on an assumption that the debt service payments on the original moderate rehabilitation financing would not be a continuing obligation of the project owner after expiration of the original subsidy contract.

The assumption was correct as to many projects under the Moderate Rehabilitation program, but it is not true as to some significant projects serving particularly vulnerable populations, including two very important community projects located in Maine, which I will describe later.

Perhaps an even greater concern than the formula itself, however, is a ruling by HUD's Office of General Counsel that Section 524(b)(3) presents the exclusive method for renewal of expiring contracts under the Moderate Rehabilitation program. In order to appreciate the drastic and problematic results of this opinion, it is necessary to understand the relationship between the Section 8 renewal legislation and the Mark-to-Market program, also enacted by MAHRA.

According to HUD, housing subsidy contracts are expiring on thousands of privately owned multifamily properties with federally insured mortgages. Many of these contracts set rents at amounts higher than those of the local market. As these subsidy contracts expire, the Mark-to-Market program will reduce rents to market levels and will restructure existing debt to levels supportable by these rents.

The basic principle of this integrated legislative structure is that for projects financed by FHA-insured mortgages, expiring Section 8 contracts which are subsidizing rents higher than market rents in the area will be renewed at rents reduced to a level not higher than the market rents. Where this reduced rent will not support debt service on the FHA-insured mortgage, the mortgage will be restructured pursuant to Mark-to-Market. The basic tradeoff is that while the Federal Government may bear some cost in the FHA insurance fund, it will be a lesser cost than continuing to subsidize above-market rents.

However, not all Section 8 projects are financed by FHA-insured mortgages. Many, instead, are financed by State housing agency bond-financed mortgages without FHA insurance, and some are even conventionally financed. The legislation provides, therefore, for an important ''exception'' to the requirement that rents be reduced upon renewal to market rents. Under Sections 524(b)(1) and (2), Section 8 contracts for ''exception'' projects—which are principally projects not eligible for Mark-to-Market because their mortgages are not FHA-insured—may be renewed at rents not exceeding the lower of current rents, as adjusted by an operating cost adjustment factor, and a ''budget-based rent'' approved by HUD, notwithstanding that such rents may exceed market rents in the area.

The effect of the HUD ruling that Section 524(b)(3) provides the exclusive authority for renewing expiring contracts in the Moderate Rehabilitation program is that ''exception'' project treatment under Section 524(b)(1) and (2) is made unavailable for Moderate Rehabilitation projects. The irony of this is that while the majority of Section 8 New Construction and Substantial Rehabilitation projects, and of course all Loan Management Set-Aside projects, are financed by FHA-insured mortgages—and therefore non-insured projects are truly the ''exception'' under those programs—the opposite is true in the Moderate Rehabilitation program.

Information provided by HUD indicates that not more than approximately 13 percent of all units ever subsidized under the Moderate Rehabilitation program were in projects financed by FHA-insured mortgages. Non-insured mortgages, therefore, were the rule, not the exception, in the Moderate Rehabilitation program.

The impact of this circumstance is well illustrated by two projects in Maine, both of which represent vital community resources for highly vulnerable low-income populations.

Loring House is a 104-unit development in Portland. The building originally was the Portland City Hospital, which was closed by the City in the early 1980s. It was converted to a residential facility for elderly and handicapped residents with significant public participation and support, including tax-exempt bond first mortgage financing by the Maine State Housing Authority, Moderate Rehabilitation Section 8 rental subsidies from the Portland and Westbrook public housing authorities, and second mortgage operating deficit financing by the Portland Housing Development Corporation.

The Loring House Section 8 contract expired in stages commencing December 31, 2000. The Loring House mortgage financing is not FHA-insured, but based on the HUD opinion I described, ''exception'' project treatment was denied. Under the Section 524(b)(3) formula, the Section 8 contract rents were reduced approximately 14 percent on renewal—this notwithstanding that the project was already incurring substantial operating deficits, supported by public operating deficit financing, even under the previous rents. The ultimate financial risk on this development is borne by the Maine State Housing Authority.

Loring House is an important community resource aside from the substantial public stake in its financing. Since 1985, the resident population has undergone a significant transformation, attributable largely to deinstitutionalization of two state mental institutions and concentration of State-supported comprehensive mental health services in the Portland area.

It is estimated that currently 70 percent of the tenant population are impacted by mental health, mental retardation and/or substance abuse issues. This change in population served has increased the total independence of the project on project-based assistance if it is to continue to serve this population. The only feasible avenue to financial survival of this facility, much less to its continued ability to serve its special population, is availability of ''exception'' project treatment.

Maison Marcotte is a 128-unit congregate care facility located in Lewiston. The building was built originally in the 1920s as a nursing home on a health care campus owned by the Sisters of Charity Health System.

Following construction of a new nursing home on the campus in the early 1980s, the Health System ground leased the former nursing home to a for-profit development group which renovated the facility into several discrete uses, including a kitchen and cafeteria facility for the health care campus, a wing of physician offices, and 128 one-bedroom congregate care units. The renovation was assisted by a 110-unit Moderate Rehabilitation award by the Lewiston Housing Authority; 18 units are private-pay.

A nonprofit subsidiary of Sisters of Charity Health System took over possession and operation of the facility following a Chapter 11 reorganization of the for-profit developer in the late 1980s. The bank debt on the facility was refinanced in 1993 by a tax-exempt bond financed first mortgage loan made by the Maine State Housing Authority which matures in 2023. The mortgage financing is not FHA-insured. The Moderate Rehabilitation HAP Contract expires October 31, 2001.

The current Moderate Rehabilitation contract rents for the one-bedroom units are substantially lower than the private-pay rents for similar units in the facility. Nevertheless, contract renewal pursuant to the existing Section 524(b)(3) formula would result in a 20-percent rent reduction, which clearly would threaten survival of the project. The financial risk, again, is borne solely by the Maine State Housing Authority.

The property might appear to have the option of opting out and converting to all private-pay units at the higher rental, but that is not the desire of the nonprofit operator nor would it be consistent with the low-income use restrictions arising from the tax-exempt bond issue. The only feasible outcome for this facility which would permit continuance of its commitment to very low-income elderly residents is renewal at ''exception rent'' pursuant to Section 524(b)(1).

I find it inconceivable that Congress consciously intended to impose the financial impact of Section 8 rent reductions in cases such as these onto State housing finance agencies. I also have no reason to think that the circumstances of these two projects, in which state housing agencies have undertaken the financing risk of long-term mortgages backed by short-term rental subsidy contracts because of the important public purposes of the projects, are unique to the State of Maine.

The legislation I am introducing today, therefore, would correct this inequity by simply striking subsection (b)(3) of Section 524. Under this legislation, the renewal of expiring contracts in the Moderate Rehabilitation program would be governed by the same renewal rent provisions as are applicable to expiring contracts in the New Construction and Substantial Rehabilitation programs, including the availability of ''exception'' project rents where the project financing is not FHA-insured.

Finally, the legislation would also strike one other current provision of the Section 8 renewal legislation which singles out Moderate Rehabilitation projects for unfavorable treatment and, more importantly, excludes Moderate Rehabilitation projects from the important policy preference for encouraging Section 8 project owners to continue their participation in the program and thereby maintain the availability of the units for low-income occupancy.

An essential tool for the preservation program, as strengthened by amendments to MAHRA enacted in 1999, is the ability to permit Section 8 owners currently receiving below-market rents under expiring contracts to receive rent increases upon renewal up to the level of market rents in the area, in exchange for a commitment to remain in the program for not less than an additional 5 years. Expiring contracts under the Moderate Rehabilitation program were excluded from this authority. However, from the standpoint of lower-income families needing subsidized housing opportunities in their communities, I believe the preservation of units which happen to be subsidized under the Moderate Rehabilitation program is no less vital than preservation of units under other subdivisions of the Section 8 program.

The Section 8 Moderate Rehabilitation program, while relatively small in comparison to the New Construction or Substantial Rehabilitation programs, is nevertheless widespread throughout the nation, in both large and small communities. It also has suffered a marked attrition of units, presumably due in large part to owner opt-outs in recent years. Information provided by HUD indicates that out of the total of approximately 120,000 units that we assisted under the Moderate Rehabilitation program, 52,000 units remained in the program in May 2000.

HUD information also indicated that 113 separate housing agencies in 42 States across the nation plus Puerto Rico, including State as well as local agencies, had 100 or more units under contract in May 2000. Since many if not most Moderate Rehabilitation project owners receive rents under their original contracts that are lower than market rents, it cannot be doubted that the ability to receive market rents could encourage many owners to remain in the program and to continue to provide affordable housing opportunities for their communities.

Accordingly, the legislation I am introducing today would also strike the current exclusion of contracts under the Moderate Rehabilitation program from the ability to receive renewal rents increased to market rent levels.

The overall effect of my legislation is to place expiring contracts under the Moderate Rehabilitation program on an equal footing with other expiring Section 8 contracts having similar characteristics in terms of comparison of contract rents with market rents and in terms of financing source—HUD-insured or non-insured.

I believe that preservation of these critical housing units is an imperative to my constituents and the communities I represent, as well as communities and projects elsewhere. As such, I urge my colleagues to join me in supporting this important legislation.

By Mr. HATCH:

S. 1889. A bill to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1890. A bill to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I wish to introduce companion measures to two House bills that would end the barring of the spouses of 'E' and 'L' nonimmigrant visa holders from work authorization while they are in the United States. The House of Representatives passed H.R. 2277 and H.R. 2278 with broad bipartisan support earlier this year and the Senate Judiciary Committee approved the House versions of both bills by unanimous consent earlier today.

The companion to H.R. 2277 amends the Immigration and Nationality Act to authorize the husbands and wives of treaty traders or treaty investors working in the United States, or E visa holders, to work themselves. The companion to H.R. 2278 is very similar, granting employment authorization to the spouses of intracompany transfers, or L visa holders. This measure would also allow individuals to apply for L visas after six months, rather than one year, of employment with the company with which they are working in the United States. I believe that both of these bills are very reasonable and deserve the support of the Senate.

Both pieces of legislation would end practices that deserve change as they currently stand. It is not right to force one spouse in a family to forgo employment simply because the other is working in the United States. Granting employment authorization to the spouses of E and L visa recipients makes it easier for foreign countries and multinational companies to persuade highly qualified employees, who are used to having both spouses actively employed, to relocate to the United States.

The time requirement for L visa applicants also warrants change. Current law requires that an L visa not be granted unless the applicant has been employed for at least 1 year with the employer in question. In many situations, this is too restrictive. This requirement inhibits firms who wish to hire individuals with specialized skills to meet the needs of clients in the United States. A shorter prior employment period would allow companies to meet the needs of their clients in a more timely manner.

I thank the House of Representatives and especially Congressman GEKAS, Chairman of the House Subcommittee on Immigration and Claims, for their hard work on these bills. Given the work between the House and Senate on these bills, I feel comfortable urging my colleagues to give these issues all due attention and support these measures.

By Mr. HATCH:

S. 1891. A bill to extend the basic pilot program for employment eligibility verification, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I stand to introduce a companion bill to H.R. 3030, the House bill that would extend a pilot program for employment eligibility verification of non-citizens. This bill would extend the program, set to expire this year, for two more years.

This basic pilot program, available to employers in California, Florida, Illinois, Nebraska, New York, and Texas, was authorized in 1996, and has proved to be an incredibly effective resource since them. The program allows participating employers to electronically access certain government databases in order to verify the employment authorization of non-citizens. Electronic confirmation of this information provides a critical tool for employers to ensure that they are not hiring unauthorized aliens. This program allows employers to protect themselves from the employer sanction provisions of the Immigration and Nationality Act, while providing meaningful deterrence to would-be employers who lack appropriate authorization from the INS.

During this time of increased national security, we can all appreciate any tool that will facilitate enforcement of our immigration laws. After communication between the House and the Senate on this issue, and the favorable report from the Senate Judiciary Committee this morning, I have little doubt that my colleagues in the Senate will recognize the useful nature of the Pilot Program and support its extension.

By Mr. SPECTER:

S.J. Res. 30. A joint resolution proposing an amendment to the Constitution of the United States regarding the appointment of individuals to serve as Members of the House of Representatives in the event a significant number of Members are unable to serve at any time because of death or incapacity; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I have sought recognition today to discuss language for a proposed constitutional amendment that would provide for the appointment of temporary Representatives by a Governor if fifty percent or more of the members of the House were killed or incapacitated. I place this

language in the RECORD not with the intention of urging its passage this session, but rather to afford my colleagues an opportunity to offer their comments and suggestions, and to afford them the opportunity to consider co-sponsoring this proposed amendment.

The events of September 11 and the subsequent anthrax attacks directed against members of Congress and other Americans highlight the very real possibility that the Senate and House of Representatives could suffer catastrophic casualties that would prevent either or both bodies from fulfilling their essential roles in the governance of our Nation. Despite the morbidity of such a scenario, it is essential that we put in place a contingency plan for the effective continuance of our democracy. The Seventeenth Amendment to the Constitution allows for the temporary replacement of Senators by appointment by the Governor of their respective States. However, no such provision applies to members of the House. Only a proposed amendment to the United States Constitution would remedy this deficiency.

The only means to replace members of the House is by special election. Article 1, Section 2, clause 14, states that ''[w]hen vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.'' My legislative language proposes that if at any time, fifty percent or more of the Members of the House of Representatives are unable to carry out their duties because of death or incapacity, each Governor of a State represented by such Member would have the power to appoint an otherwise qualified individual to take the place of the Member as soon as practicable after certification of the Member's death or incapacity. Article I, Section 4, clause I states that ''a Majority of each [House] shall constitute a Quroum to do Business.'' Accordingly, this extraordinary measure giving a Governor the power of appointment of a replacement Member would be triggered, when due to death or incapacity, the House would not have a quorum to conduct business.

My proposed amendment requires an individual appointed to take the place of the Member to serve until a Member is elected to fill the vacancy by a special election to be held at any time during the 90-day period which begins on the date of the individual's appointment, except that if a regularly schuled general election for the office was scheduled to be held during such period or 30 days thereafter, no special election would be held, and the Member elected in such regularly scheduled general election would fill the vacancy upon election. Further, my proposed amendment allows for the appointed individual to be a candidate in the special election or regularly scheduled general election.

The Governor would be required to appoint a person of the same party as the ''replaced'' member. This stipulation would ensure that the citizens of a congressional district would continue to be represented by a Congressperson from the same party.

While I understand that this is an issue we would rather not grapple with, it is imperative that we deliberate and ensure that, in case of a catastrophe, our system of governance will continue to remain strong and stable. Similar legislation has been introduced in the House of Representatives. I welcome comments from my colleagues in both the House and Senate and look forward to passing meaningful legislation when Congress returns from its winter recess.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 194—CONGRATULATING THE PEOPLE AND GOVERNMENT OF KAZAKHSTAN ON THE TENTH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF KAZAKHSTAN

Mr. BROWNBACK submitted the following resolution; which was considered and agreed to:

S. RES. 194

Whereas, on December 16, 2001, Kazakhstan will celebrate 10 years of independence;

Whereas, since gaining its independence, Kazakhstan has made significant strides in becoming a stable and peaceful nation that provides economic opportunity for its people;

Whereas Kazakhstan continues to face political, ethnic, economic, and environmental challenges;

Whereas Kazakhstan plays an important role in Central Asia by virtue of its large territory, ample natural resources, and strategic location;

Whereas the Department of Energy estimates that Kazakhstan has up to 17,600,000,000 barrels of proven petroleum reserves and up to 83,000,000,000,000 cubic feet of proven natural gas reserves;

Whereas Kazakhstan has successfully partnered with United States companies in the development of its petroleum and natural gas resources;

Whereas in November 2001, the Caspian Pipeline Consortium was inaugurated, providing the first major pipeline to bring the Caspian energy resources to the world market;

Whereas the United States private sector contributed nearly 50 percent of the $2,600,000,000 Caspian Pipeline Consortium investment;

Whereas Kazakhstan, under the leadership of President Nursultan Nazarbaev, has fully cooperated with the United States on national security concerns, including combating nuclear proliferation, international crime, and narcotics trafficking;

Whereas, since September 11, 2001, cooperation with Kazakhstan and other Central Asian States, specifically Tajikistan and Uzbekistan, has become even more important to the ability of the United States to protect the United States homeland; and

Whereas Kazakhstan has extended all due cooperation to the United States in fighting a war against international terrorism: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the people of Kazakhstan and its government, on the tenth anniversary of its independence;

(2) welcomes the partnership between the Government of Kazakhstan and United States companies in developing its natural resources in an environmentally sustainable manner;

(3) applauds the cooperation between the Government of Kazakhstan and the Government of the United States on matters of national security and is grateful for the full cooperation of Kazakhstan in the war against international terrorism;

(4) encourages the Government of Kazakhstan to continue to make progress in the areas of institutionalizing democracy, respecting human rights, reducing corruption, and implementing broad-based market reforms; and

(5) looks forward to further enhancing the economic, political, and national security cooperation between Kazakhstan and the United States.

SENATE RESOLUTION 195—TENDERING THE THANKS OF THE SENATE TO THE VICE PRESIDENT FOR THE COURTEOUS, DIGNIFIED, AND IMPARTIAL MANNER IN WHICH HE HAS PRESIDED OVER THE DELIBERATIONS OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 195

Resolved, That the thanks of the Senate are hereby tendered to the Honorable RICHARD B. CHENEY, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundred Seventh Congress.

SENATE RESOLUTION 196—TENDERING THE THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE FOR THE COURTEOUS, DIGNIFIED, AND IMPARTIAL MANNER IN WHICH HE HAS PRESIDED OVER THE DELIBERATIONS OF THE SENATE

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 196

Resolved, That the thanks of the Senate are hereby tendered to the Honorable ROBERT C. BYRD, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundred Seventh Congress.

SENATE RESOLUTION 197—TO COMMEND THE EXEMPLARY LEADERSHIP OF THE MAJORITY LEADER

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 197

Resolved, That the thanks of the Senate are hereby tendered to the distinguished Majority Leader, the Senator from South Dakota,