

under this section shall ensure, to the maximum extent practicable in accordance with the income and population distribution of the State, that a sufficient percentage of the funds allocated to the State under subsection (b)(2) are available for disadvantaged, small, and rural eligible entities in the State.

(d) **ELIGIBLE PROJECTS AND ACTIVITIES.**—

(1) **IN GENERAL.**—A grant awarded by a State under subsection (c) shall be used by an eligible entity to carry out 1 or more eligible projects or activities.

(2) **COORDINATION WITH EXISTING TRAINING PROGRAMS.**—In awarding a grant for an eligible project or activity described in subsection (a)(3)(B)(vii), a State shall, to the maximum extent practicable, coordinate with training programs of rural water associations of the State that are in effect as of the date on which the grant is awarded.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$50,000,000 for the fiscal year in which this Act is enacted.

Mr. REID. I ask unanimous consent the committee amendment in the nature of a substitute be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1608), as amended, was read the third time and passed.

#### WAIVING CERTAIN LIMITATIONS IN THE USE OF FUNDS TO PAY THE COSTS OF PROJECTS IN RESPONSE TO THE ATTACK ON THE WORLD TRADE CENTER

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 275, S. 1637.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1637) to waive certain limitations in the case of use of the emergency fund authorized by section 125 of title 23, United States Code, to pay the costs of projects in response to the attack on the World Trade Center in New York City that occurred on September 11, 2001.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Senator CLINTON has an amendment at the desk. I ask for its consideration, that the amendment be agreed to, the motion to reconsider be laid upon the table, the bill, as amended, be read three times and passed, and the motion to reconsider be laid on the table, with no intervening action or debate, and any statements pertaining thereto be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 2696) was agreed to, as follows:

On page 2, strike lines 10 through 14 and insert the following:

“shall be 100 percent; and

“(2) notwithstanding section 125(d)(1) of that”.

The bill (S. 1637), as amended, was read the third time and passed.

[The bill will appear in a future edition of the RECORD.]

#### FEDERAL JUDICIARY PROTECTION ACT OF 2001

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 105, S. 1099.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1099) to increase the criminal penalty for assaulting or threatening Federal judges or family members and other public servants and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing the Smith-Leahy Federal Judiciary Protection Act, S. 1099.

In the last two Congresses, I joined as an original cosponsor of identical legislation introduced by Senator GORDON SMITH, which unanimously passed the Senate Judiciary Committee and the Senate but was not acted upon by the House of Representatives. I commend the Senator from Oregon for his continued leadership in protecting public servants in our Federal government.

Our bipartisan legislation would provide greater protection to Federal judges, law enforcement officers, and United States officials and their families. Federal law enforcement officers, under our bill, include United States Capitol Police Officers. United States officials, under our bill, include the President, Vice President, Cabinet Secretaries and Members of Congress.

Specifically, our legislation would: increase the maximum prison term for forcible assaults, resistance, intimidation or interference with a Federal judge, law enforcement officer or United States official from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge, law enforcement officer or United States official from 10 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kidnapping of a member of the immediate family of a Federal judge or law enforcement officer from 5 years imprisonment to 10 years.

Our bipartisan bill has the support of the Department of Justice, the United States Judicial Conference, the United States Sentencing Commission and the United States Marshal Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard working men and women who serve in our Federal government. Just a few months ago, I was saddened to read about death threats against my colleague from Vermont after his act of conscience in declaring himself an Independent.

Senator JEFFORDS received multiple threats against his life, which forced around-the-clock police protection. These unfortunate threats made a difficult time even more difficult for Senator JEFFORDS and his family.

We are seeing more violence and threats of violence against officials of our Federal government. In July, we commemorated the lives of two Capitol Police officers, Officer Jacob Chestnut and Detective John Gibson, who were slain in the line of duty in the Capitol Building in 1998. A courtroom in Urbana, Illinois, was firebombed recently, apparently by a disgruntled litigant. And we also continue to mourn the victims of the horrible tragedy of the bombing of the federal office building in Oklahoma City in 1995.

In my home state during the summer of 1997, a Vermont border patrol officer, John Pfeiffer, was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day, Drega shot and killed two state troopers and a local judge in New Hampshire. Apparently, Drega was bent on settling a grudge against the judge who had ruled against him in a land dispute. I had a chance to visit John Pfeiffer in the hospital and met his wife and young daughter. As a federal law enforcement officer, Agent Pfeiffer and his family will receive greater protection under our bill.

After the tragic events of September 11, it is even more important that we protect the dedicated women and men throughout the Federal Judiciary and Federal government in this country who do a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the federal government, who are too often maligned and unfairly disparaged.

It is unfortunate that it takes acts or threats of violence to put a human face on the Federal Judiciary, law enforcement officers and U.S. officials, to remind everyone in our democracy that these are people with children and parents and friends. They deserve our respect and our protection.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (S. 1099) was read the third time and passed, as follows:

S. 1099

*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 “Federal Judiciary Protection Act of 2001”.

#### SEC. 2. ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.

Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “three” and inserting “8”; and

(2) in subsection (b), by striking “ten” and inserting “20”.

**SEC. 3. INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.**

Section 115(b)(4) of title 18, United States Code, is amended—

- (1) by striking “five” and inserting “10”; and
- (2) by striking “three” and inserting “6”.

**SEC. 4. MAILING THREATENING COMMUNICATIONS.**

Section 876 of title 18, United States Code, is amended—

- (1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;
- (2) in subsection (c), as redesignated by paragraph (1), by adding at the end the following: “If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.”; and
- (3) in subsection (d), as redesignated by paragraph (1), by adding at the end the following: “If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.”.

**SEC. 5. AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.**

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

- (1) any expression of congressional intent regarding the appropriate penalties for the offense;
- (2) the range of conduct covered by the offense;
- (3) the existing sentences for the offense;
- (4) the extent to which sentencing enhancements within the Federal sentencing guidelines and the authority of the court to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;
- (5) the extent to which the Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;
- (6) the extent to which the Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;
- (7) the relationship of the Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and
- (8) any other factors that the Commission considers to be appropriate.

**IMMIGRATION AND NATIONALITY ACT AMENDMENTS**

Mr. REID. Mr. President, I ask unanimous consent that we move now to Calendar No. 292, H.R. 2278.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2278) 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.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (H.R. 2278) was read the third time and passed.

**WORK AUTHORIZATION FOR NON-IMMIGRANT SPOUSES OF TREATY TRADERS AND TREATY INVESTORS**

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 291, H.R. 2277.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2277) to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (H.R. 2277) was read the third time and passed.

**SMALL BUSINESS LIABILITY RELIEF AND BROWNFIELDS REVITALIZATION ACT**

Mr. REID. I ask unanimous consent the Senate proceed to H.R. 2869, just received from the House, now at the desk.

The PRESIDENT pro tempore. The clerk will state the title of the House bill.

The legislative clerk read as follows:

A bill (H.R. 2869) to provide certain relief for small business from liability under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and to amend such Act to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, and to enhance State response programs.

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, for the information of colleagues regarding H.R. 2869, I ask unanimous consent the following letter be printed in the RECORD:

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

ENVIRONMENTAL PROTECTION AGENCY,  
Washington, DC, December 20, 2001.

**MEMORANDUM**

Subject: Davis Bacon Act Applicability Under Brownfields Legislation.

From: Robert E. Fabricant, General Counsel.  
To: Marianne Horinko, Assistant Administrator, Office of Solid Waste and Emergency Response.

As you know, the House of Representatives has passed a bill, H.R. 2869, which we are informed would amend CERCLA to add a new section 104(k), “Brownfields Revitalization Funding.” We have been asked whether CERCLA, if amended as proposed in H.R. 2869, would require that the Davis-Bacon Act apply to contracts under loans made from a Brownfields Revolving Loan Fund (BRLF) entirely with non-federal funds. We have concluded that H.R. 2869 does not change the legal applicability of the Davis-Bacon Act to the Brownfields program. We have also concluded that this bill neither requires nor prohibits the application of the Davis-Bacon Act to contracts under BRLF loans made entirely with non-grant funds, e.g., principal and interest loan payments. CERCLA would continue to require that the Davis-Bacon Act apply to contracts under BRLF loans made in whole or in part with federal grant funds. Finally, state cleanup programs that operate independently and are not funded under this bill are not affected by the bill, and will operate in accordance with applicable state law.

The proposed legislation would add section 104(k) to CERCLA. New sections 104(k)(3)(A) and (B) authorize the President to make grants “for capitalization of revolving loan funds” for “the remediation of brownfield sites.” Under section 104(k)(9)(B)(iii), each recipient of a capitalization grant must provide a non-federal matching share of at least 20 percent (unless the Administrator makes a hardship determination). Section 104(k)(12), “Funding,” authorizes the appropriation of \$200 million for each of fiscal years 2002 through 2006 to carry out section 104(k).

Under the Davis-Bacon Act, 40 U.S.C. 276a *et seq.*, most public building or public works construction contracts entered into by the United States must stipulate that the wages paid to laborers and mechanics will be comparable to the prevailing wages for similar work in the locality where the contract is to be performed. The Davis-Bacon Act does not apply by its own terms to contracts to which the United States is not a party, including contracts awarded by recipients of federal grants in performance of a grant project.

The proposed legislation is silent regarding the applicability of the Davis-Bacon Act to BRLFs. However, an existing provision of CERCLA section 104(g), extends the reach of the Davis-Bacon Act beyond direct federal procurement. That section applies Davis-Bacon Act prevailing wage rate requirements to contracts “for construction, repair or alteration work funded in whole or in part under this section.” Since the new BRLF provision would fall within section 104, it would be subject to the Davis-Bacon requirements of section 104(g). However, CERCLA does not define the precise meaning or scope of the quoted from section 104(g).