

S. 367

At the request of Mr. BOND, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 367, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. CON. RES. 14

At the request of Mr. CAMPBELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

S. RES. 20

At the request of Mr. SPECTER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Res. 20, a resolution designating March 25, 2001, as “Greek Independence Day: A National Day of Celebration of Greek and American Democracy.”

S. RES. 23

At the request of Mr. CLELAND, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 23, a resolution expressing the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian.

S. RES. 24

At the request of Mr. SANTORUM, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of S. Res. 24, a resolution honoring the contributions of Catholic schools.

S. RES. 25

At the request of Mr. CRAIG, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. Res. 25, a resolution designating the week beginning March 18, 2001 as “National Safe Place Week.”

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SARBANES (for himself, Mr. WARNER, Mrs. MURRAY, and Mr. CAMPBELL):

S. 392. A bill to grant a Federal Charter to Korean War Veterans Association, Incorporated, and for other purposes; to the Committee on the Judiciary.

Mr. SARBANES. Mr. President, today I am introducing legislation together with Senators WARNER, CAMPBELL, and MURRAY, which would grant a Federal Charter to the Korean War Veterans Association, Incorporated. This legislation recognizes and honors the 5.7 million Americans who fought

and served during the Korean War for their struggles and sacrifices on behalf of freedom and the principles and ideals of our nation.

The year 2000 marked the 50th Anniversary of the Korean War. In June 1950 when the North Korea People's Army swept across the 38th Parallel to occupy Seoul, South Korea, members of our Armed Forces—including many from the State of Maryland—immediately answered the call of the U.N. to repel this forceful invasion. Without hesitation, these soldiers traveled to an unfamiliar corner of the world to join an unprecedented multinational force comprised of 22 countries and risked their lives to protect freedom. The Americans who led this international effort were true patriots who fought with remarkable courage.

In battles such as Pork Chop Hill, the Inchon Landing and the frozen Chosin Reservoir, which was fought in temperatures as low as fifty-seven degrees below zero, they faced some of the most brutal combat in history. By the time the fighting had ended, 8,176 Americans were listed as missing or prisoners of war—some of whom are still missing—and over 36,000 Americans had died. One hundred and thirty-one Korean War Veterans were awarded the nation's highest commendation for combat bravery, the Medal of Honor. Ninety-four of these soldiers gave their lives in the process. There is an engraving on the Korean War Veterans Memorial which reflects these losses and how brutal a war this was. It reads, “Freedom is not Free.” Yet, as a Nation, we have done little more than establish this memorial to publicly acknowledge the bravery of those who fought the Korean War. The Korean War has been termed by many as the “Forgotten War.” Freedom is not free. We owe our Korean War Veterans a debt of gratitude. Granting this Federal charter—at no cost to the government—is a small expression of appreciation that we as a Nation can offer to these men and women, one which will enable them to work as a unified front to ensure that the “Forgotten War” is forgotten no more.

The Korean War Veterans Association was originally incorporated on June 25, 1985. Since its first annual reunion and memorial service in Arlington, Virginia, where its members decided to develop a national focus and strong commitment to service, the association has grown substantially to a membership of over 17,000. A Federal charter would allow the Association to continue and grow its mission and further its charitable and benevolent causes. Specifically, it will afford the Korean War Veterans' Association the same status as other major veterans organizations and allow it to participate as part of select committees with other congressionally chartered veterans and military groups. A Federal charter will also accelerate the Association's “accreditation” with the Department of Veterans Affairs which

will enable its members to assist in processing veterans' claims.

The Korean War Veterans have asked for very little in return for their service and sacrifice. I urge my colleagues to join me in supporting this legislation and ask that the text of the measure be printed in the RECORD immediately following my comments.

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

S. 392

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

#### SECTION 1. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

**“CHAPTER 1201—[RESERVED]”;** and

(2) by inserting the following:

#### “CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

##### “Sec.

“120101. Organization.

“120102. Purposes.

“120103. Membership.

“120104. Governing body.

“120105. Powers.

“120106. Restrictions.

“120107. Duty to maintain corporate and tax-exempt status.

“120108. Records and inspection.

“120109. Service of process.

“120110. Liability for acts of officers and agents.

“120111. Annual report.

##### “§ 120101. Organization

“(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the ‘corporation’), incorporated in the State of New York, is a federally chartered corporation.

“(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

##### “§ 120102. Purposes

“The purposes of the corporation are as provided in its articles of incorporation and include—

“(1) organizing, promoting, and maintaining for benevolent and charitable purposes an association of persons who have seen honorable service in the Armed Forces during the Korean War, and of certain other persons;

“(2) providing a means of contact and communication among members of the corporation;

“(3) promoting the establishment of, and establishing, war and other memorials commemorative of persons who served in the Armed Forces during the Korean War; and

“(4) aiding needy members of the corporation, their wives and children, and the widows and children of persons who were members of the corporation at the time of their death.

##### “§ 120103. Membership

“Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

##### “§ 120104. Governing body

“(a) BOARD OF DIRECTORS.—The board of directors of the corporation, and the responsibilities of the board of directors, are as provided in the articles of incorporation of the corporation.

“(b) OFFICERS.—The officers of the corporation, and the election of the officers of the corporation, are as provided in the articles of incorporation.

#### § 120105. Powers

“The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### § 120106. Restrictions

“(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

“(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

“(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

“(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

#### § 120107. Duty to maintain corporate and tax-exempt status

“(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

“(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

#### § 120108. Records and inspection

“(a) RECORDS.—The corporation shall keep—

“(1) correct and complete records of account;

“(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

“(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

“(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### § 120109. Service of process

“The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

#### § 120110. Liability for acts of officers and agents

“The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### § 120111. Annual report

“The corporation shall submit an annual report to Congress on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.”

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by striking the item relating to chapter 1201 and inserting the following new item:

“1201. Korean War Veterans Association, Incorporated ..... 120101”.

By Mr. FRIST (for himself and Mr. TORRICELELLI):

S. 393. A bill to amend the Internal Revenue Code of 1986 to encourage

charitable contributions to public charities for use in medical research, to the Committee on Finance.

Mr. FRIST. Mr. President, I rise today to introduce bipartisan legislation, the Paul Coverdell Medical Research Investment Act.

Under the current tax code, deductible charitable cash gifts to support medical research are limited to 50% of an individual’s adjusted gross income. This bill would simply increase the deductibility of cash gifts for medical research to 80 percent of an individual’s adjusted gross income. For those individuals who are willing and able to give more than 80 percent of their income, the bill also extends the period an individual can carry the deduction forward for excess charitable gifts from five years to ten years.

In what is perhaps the most important change for today’s economy, the bill allows taxpayers to donate stock without being penalized for it. Americans regularly donate stock acquired through a stock option plan to their favorite charity. And often they make the donation within a year of exercising their stock options. But current law penalizes these donations by taxing them as ordinary income or as capital gain. These taxes can run as high as 40 percent, which acts as a disincentive to contribute to charities. How absurd that someone who donates \$1,000 to a charity has to sell \$1,400 of stock to pay for it. The person could wait a year and give the stock then, but why delay the contribution when that money can be put to work curing disease today. The Paul Coverdell MRI Act is premised on a simple truth: people should not be penalized for helping others.

PriceWaterhouseCoopers, relying on IRS data and studies of charitable giving, conducted a study on the effects of the Paul Coverdell MRI Act. It concluded that if the proposal were in effect last year there would have been a 4.0 percent to 4.5 percent increase in individual giving in 2000. This amounts to \$180.4 million additional dollars in charitable donations for medical research dollars that would result in tangible health benefits to all Americans. If the additional giving grew every year over five years at the same rate as national income, a billion dollars more would be put to work to cure disease. Over the course of ten years, the number jumps to \$2.3 billion in new money for medical research. For many research efforts, that money could mean the difference between finding a cure or not finding a cure.

The returns from increased funding of medical research not only in economic sayings to the country, but in terms of curing disease and finding new treatments could be enormous. The amount and impact of disease in this country is staggering. Each day more than 1,500 Americans die of cancer. Sixteen million people have diabetes, their lives are shortened by an average of fifteen years. Cardiovascular diseases take approximately one million Amer-

ican lives a year. One and a half million people have Parkinson’s Disease. Countless families suffer with the pain of a loved one who has Alzheimer’s. And yet these diseases go without a cure. We must work towards the day when they are cured, prevented, or eliminated—just like polio and smallpox were years ago.

Increased funding of medical research by the private sector is needed to save and improve American lives. New discoveries in science and technology are creating even greater opportunities than in the past for large returns from money invested in medical research. The mapping of the human genome is but one example. Dr. Abraham Lieberman, a neurologist at the National Parkinson’s Foundation, was quoted in Newsweek as saying that the medical research community today is “standing at the same threshold that we reached with infectious disease 100 years ago.”

The Paul Coverdell MRI Act encourages the financial gifts that will enable that threshold to be overcome. I hope you will join me in supporting it.

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

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

S. 393

*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 “Paul Coverdell Medical Research Investment Act of 2001”.

#### SEC. 2. INCREASE IN LIMITATION ON CHARITABLE DEDUCTION FOR CONTRIBUTIONS FOR MEDICAL RESEARCH.

(a) IN GENERAL.—Paragraph (1) of section 170(b) of the Internal Revenue Code of 1986 (relating to percentage limitations) is amended by adding at the end the following new subparagraph:

“(G) SPECIAL LIMITATION WITH RESPECT TO CERTAIN CONTRIBUTIONS FOR MEDICAL RESEARCH.—

“(i) IN GENERAL.—Any medical research contribution shall be allowed to the extent that the aggregate of such contributions does not exceed the lesser of—

“(I) 80 percent of the taxpayer’s contribution base for any taxable year, or

“(II) the excess of 80 percent of the taxpayer’s contribution base for the taxable year over the amount of charitable contributions allowable under subparagraphs (A) and (B) (determined without regard to subparagraph (C)).

“(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of such clause, such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a medical research contribution in each of the 10 succeeding taxable years in order of time.

“(iii) TREATMENT OF CAPITAL GAIN PROPERTY.—In the case of any medical research contribution of capital gain property (as defined in subparagraph (C)(iv)), subsection (e)(1) shall apply to such contribution.

“(iv) MEDICAL RESEARCH CONTRIBUTION.—For purposes of this subparagraph, the term ‘medical research contribution’ means a charitable contribution—

“(I) to an organization described in clauses (ii), (iii), (v), or (vi) of subparagraph (A), and

“(II) which is designated for the use of conducting medical research.

“(v) MEDICAL RESEARCH.—For purposes of this subparagraph, the term ‘medical research’ has the meaning given such term under the regulations promulgated under subparagraph (A)(ii), as in effect on the date of the enactment of this subparagraph.”.

(b) CONFORMING AMENDMENTS.

(1) Section 170(b)(1)(A) of the Internal Revenue Code of 1986 is amended in the matter preceding clause (i) by inserting “(other than a medical research contribution)” after “contribution”.

(2) Section 170(b)(1)(B) of such Code is amended by inserting “or a medical research contribution” after “applies”.

(3) Section 170(b)(1)(C)(i) of such Code is amended by striking “subparagraph (D)” and inserting “subparagraph (D) or (G)”.

(4) Section 170(b)(1)(D)(i) of such Code is amended—

(A) in the matter preceding subclause (I), by inserting “or a medical research contribution” after “applies”, and

(B) in the second sentence, by inserting “(other than medical research contributions)” before the period.

(5) Section 545(b)(2) of such Code is amended by striking “and (D)” and inserting “(D), and (G)”.

(6) Section 556(b)(2) of such Code is amended by striking “and (D)” and inserting “(D), and (G)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) to contributions made in taxable years beginning after December 31, 2001, and

(2) to contributions made on or before December 31, 2001, but only to the extent that a deduction would be allowed under section 170 of the Internal Revenue Code of 1986 for taxable years beginning after December 31, 2000, had section 170(b)(1)(G) of such Code (as added by this section) applied to such contributions when made.

**SEC. 3. TREATMENT OF CERTAIN INCENTIVE STOCK OPTIONS.**

(a) AMT ADJUSTMENTS.—Section 56(b)(3) of the Internal Revenue Code of 1986 (relating to treatment of incentive stock options) is amended—

(1) by striking “Section 421” and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraph (B), section 421”, and

(2) by adding at the end the following new subparagraph:

“(B) EXCEPTION FOR CERTAIN MEDICAL RESEARCH STOCK.—

“(i) IN GENERAL.—This paragraph shall not apply in the case of a medical research stock transfer.

“(ii) MEDICAL RESEARCH STOCK TRANSFER.—For purposes of clause (i), the term ‘medical research stock transfer’ means a transfer—

“(I) of stock which is traded on an established securities market,

(II) of stock which is acquired pursuant to the exercise of an incentive stock option within the same taxable year as such transfer occurs, and

“(III) which is a medical research contribution (as defined in section 170(b)(1)(G)(iv)).”.

(b) NONRECOGNITION OF CERTAIN INCENTIVE STOCK OPTIONS.—Section 422(c) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new paragraph:

“(8) MEDICAL RESEARCH CONTRIBUTIONS.—For purposes of this section and section 421, the transfer of a share of stock which is a medical research stock transfer (as defined in section 56(b)(3)(B)) shall be treated as meeting the requirements of subsection (a)(1).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers

of stock made after the date of the enactment of this Act.

By Mr. DOMENICI:

S. 394. A bill to make an urgent supplemental appropriation for fiscal year 2001 for the Department of Defense for the Defense Health Program; to the Committee on Appropriations.

Mr. DOMENICI. Mr. President, as many Senators know, there has been a major problem in funding for health care for military families and military retirees since 1993. Budgets for the Defense Health Program have been submitted to Congress without requesting enough spending to cover all known medical and health care expenses.

This problem has been recurring year after year because budget officials in the Department of Defense had been “low balling” their predictions of inflation in DoD’s Defense Health Program; they have projected medical inflation at or below the overall economy’s rate. Meanwhile, medical care costs have grown well above the national inflation rate.

Since 1996 DoD has projected an average annual inflation rate of 1.8 percent in the Defense Health Program, but the actual average rate over that time period is 4.9 percent.

Just last year, DoD predicted 2.1 percent inflation for the Defense Health Program in 2001; experts are predicting the rate to be 7.9 percent.

This unacceptable budgeting practice has resulted in expenses being incurred but no funds to pay the bills. Congress has responded by funding these gaps with additional spending, usually in emergency supplemental appropriations bills.

While we have addressed the problem when we ultimately learn the size of the funding gap, the inappropriate budgeting practices of the past have had a major negative impact on military service men and women, military retirees, and the dependents of both.

When military medical personnel and civilian providers do not know if or when they will receive full funding, appointments for healthcare can be complicated, and the services rendered can be delayed or degraded. A system that many already find troublesome can become exasperating.

This problem is not small; it directly affects an active beneficiary population of almost six million, including 1.5 million active duty servicemen and women, 1 million retirees, and 3.3 family dependents.

For several years the problem has been growing, from approximately \$240 million in 1994 to as much as \$1.3 billion in fiscal year 2000. Coincident with the enactment of “Tricare for Life” and other new health care benefits in the Defense Authorization Act for 2001, the problem has remained at this all time high level and is currently estimated to be \$1.2 billion for 2001. Some predict it may ultimately be \$1.4 billion before the year is over.

President Bush has already pledged that he will fully fund Tricare costs in

2002 at an estimated \$3.9 billion, and I have every expectation that with the proper advice he will also fully fund all 2002 Defense Health Program costs. However, the earlier 2001 funding gap remains, and I believe Congress can and should act as promptly as possible to fully fund all known costs.

Accordingly, I am introducing legislation to provide a supplemental appropriation of the currently estimated \$1.2 billion for the Defense Health Program for 2001.

Because the money is needed on an urgent basis, I will discuss how we can address this matter with the Chairman of the Senate Appropriations Committee when he convenes a meeting of the Defense Subcommittee on February 28 to conduct hearings on the Military Health System. I fully expect that we will act as promptly as possible and in time to address real needs.

I am also announcing four specific recommendations for the Defense Health Program I will make as Chairman of the Senate Budget Committee for the 2002 congressional budget resolution:

Sufficient budget authority and outlays to enable the enactment of the 2001 appropriations legislation I am introducing today.

An additional \$1.4 billion in fiscal year 2002 to accommodate actual inflation in DoD health care, rather than the unrealistic under-estimate left by the officials of the outgoing Administration.

To accommodate future inflation, the budget resolution will also provide the requisite amounts of budget authority and outlays to accommodate 5 percent inflation for the next ten years. While I have every expectation that President Bush and Secretary of Defense Rumsfeld will address this underfunding in the 2002 budget, I am adding these amounts, totaling \$18 billion over 10 years, just in case their review of the defense budget has not yet addressed the unacceptable budgeting practices of the past.

In its current estimates, the Congressional Budget Office has not included additional discretionary spending in its “baseline” for the “Tricare for Life” program. The technical reasons for this are esoteric, but the money is substantial, \$9.8 billion over 10 years. If this money were not also added now, we would just be engaging in another form of underfunding.

Congress and the executive branch have made various promises to both active duty and retired military personnel for their healthcare and the healthcare of their dependents. It is unacceptable to make these promises but not to include in the budget the money required to make good on them. The steps I am taking today are the first steps toward making that happen.

By Mr. BOND (for himself and Mr. KERRY):

S. 395. A bill to ensure the independence and nonpartisan operation of the

Office of Advocacy of the Small Business Administration; to the Committee on Small Business.

Mr. BOND. Mr. President, I rise in support of the Independent Office of Advocacy Act of 2001. This bill is designed to build on the success achieved by the Office of Advocacy over the past 24 years. It is intended to strengthen that foundation to make the Office of Advocacy a stronger, more effective advocate for all small businesses throughout the United States. This bill was approved unanimously by the Senate during the 106th Congress; however, it was not taken up in the House of Representatives prior to the adjournment last month. It is my understanding the House Committee on Small Business under its new chairman, DON MANZULLO, is likely to act on similar legislation this year.

The Office of Advocacy is a unique office within the Federal Government. It is part of the Small Business Administration, SBA/Agency, and its director, the Chief Counsel for Advocacy, is nominated by the President and confirmed by the Senate. At the same time, the Office is also intended to be the independent voice for small business within the Federal Government. It is supposed to develop proposals for changing government policies to help small businesses, and it is supposed to represent the views and interests of small businesses before other Federal agencies.

As the director of the Office of Advocacy, the Chief Counsel for Advocacy has a dual responsibility. On the one hand, he is the independent watchdog for small business. On the other hand, he is also a part of the President's administration. As you can imagine, those are sometimes difficult roles to play simultaneously.

The Independent Office of Advocacy Act of 2001 would make the Office of Advocacy and the Chief Counsel for Advocacy a fully independent advocate within the executive branch acting on behalf of the small business community. The bill would establish a clear mandate that the Office of Advocacy will fight on behalf of small businesses regardless of the position taken on critical issues by the President and his administration.

The Independent Office of Advocacy Act of 2001 would direct the Chief Counsel to submit an annual report on Federal agency compliance with the Regulatory Flexibility Act to the President and the Senate and House Committees on Small Business. The Reg Flex Act is a very important weapon in the war against the over-regulation of small businesses. When the Senate first debated this bill in the 106th Congress, I offered an amendment at the request of Senator FRED THOMPSON, chairman of the Government Affairs Committee, that would direct the Chief Counsel for Advocacy to send a copy of the report to the Senate Government Affairs Committee. In addition, my amendment also required that copies of

the report be sent to the House Committee on Government Reform and the House and Senate Committees on the Judiciary. I believe these changes make good sense for each of the committees to receive this report on Reg Flex compliance, and I have included them in the version of the bill being introduced and debated today.

The Office of Advocacy as envisioned by the Independent Office of Advocacy Act 2001 would be unique within the executive branch. The Chief Counsel for Advocacy would be a wide-ranging advocate, who would be free to take positions contrary to the administration's policies and to advocate change in government programs and attitudes as they impact small businesses. During its consideration of the bill in 1999, the Committee on Small Business adopted unanimously an amendment I offered, which was cosponsored by Senator JOHN KERRY, the committee's ranking Democrat, to require the Chief Counsel to be appointed "from civilian life." This qualification is intended to emphasize that the person nominated to serve in this important role should have a strong small business background.

In 1976, Congress established the Office of Advocacy in the SBA to be the eyes, ears and voice for small business within the Federal Government. Over time, it has been assumed that the Office of Advocacy is the "independent" voice for small business. While I strongly believe that the Office of Advocacy and the Chief Counsel should be independent and free to advocate or support positions that might be contrary to the administration's policies, I have come to find that the Office has not been as independent as necessary to do the job for small business.

For example, funding for the Office of Advocacy comes from the salaries and expense account of the SBA's budget. Staffing is allocated by the SBA Administrator to the Office of Advocacy from the overall staff allocation for the Agency. In 1990, there were 70 full-time employees working on behalf of small businesses in the Office of Advocacy. Today's allocation of staff is 49, and fewer are actually on-board as the result of the longstanding hiring freeze at the SBA. The independence of the Office is diminished when the Office of Advocacy staff is reduced to allow for increased staffing for new programs and additional initiatives in other areas of SBA, at the discretion of the Administrator.

In addition, the General Accounting Office, GAO, undertook a report for me on personnel practices at the SBA, GAO/GGD-99-68. I was alarmed by the GAO's finding that during the past eight years, the Assistant Advocates and Regional Advocates hired by the Office of Advocacy shared many of the attributes of schedule C political appointees. In fact Regional Advocates are frequently cleared by the White House personnel office—the same procedure followed for approving Schedule C political appointees.

The facts discussed in the GAO report cast the Office of Advocacy in a whole new light. The report raised questions, concerns and suspicions regarding the independence of the Office of Advocacy. Has there been a time when the Office did not pursue a matter as vigorously as it might have were it not for direct or indirect political influence? Prior to receipt of the GAO Report, my response was a resounding "No." But since receipt of the GAO report, a question mark arises.

Let me take a moment and note that I will be unrelenting in my efforts to insure the complete independence of the Office of Advocacy in all matters, at all times, for the continued benefit of all small businesses. However, so long as the administration controls the budget allocated to the Office of Advocacy and controls who is hired, the independence of the Office may be in jeopardy. We must correct this situation, and the sooner we do it, the better it will be for the small business community. As our government is changing over to President Bush's administration, this would be a opportune time to establish, once and for all, the actual independence of the Office of Advocacy.

The Independent Office of Advocacy Act of 2001 builds a firewall to prevent the political intrusion into the management of day-to-day operations of the Office of Advocacy. The bill would require that the SBA's budget include a separate account for the Office of Advocacy. No longer would its funds come from the general operating account of the Agency. The separate account would also provide for the number of full-time employees who would work within the Office of Advocacy. No longer would the Chief Counsel for Advocacy have to seek approval from the SBA Administrator to hire staff for the Office of Advocacy.

The bill would also continue the practice of allowing the Chief Counsel to hire individuals critical to the mission of the Office of Advocacy without going through the normal competitive procedures directed by federal law and the Office of Personnel Management, (OPM). I believe this special hiring authority, which is limited only to employees within the Office of Advocacy, is beneficial because it allows the Chief Counsel to hire quickly those persons who can best asset the Office in responding to changing issues and problems confronting small businesses.

Mr. President, the Independent Office of Advocacy Act is a sound bill. It is the product of a great deal of thoughtful, objective review and consideration by me, the staff of the Committee on Small Business, representatives of the small business community, former Chief Counsels for Advocacy and others. These individuals have also devoted much time and effort in actively participating in a committee round-table discussion on the Office of Advocacy, which my committee held on April 21, 1999. As I stated earlier, the

Committee on Small Business approved this bill by a unanimous 17-0 vote, and it was later approved unanimously by the Senate. I urge each of my colleagues to review this legislation closely.

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. 395

*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 “Independent Office of Advocacy Act of 2001”.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) excessive regulations continue to burden United States small businesses;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small businesses;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the “Office”) is an effective advocate for small businesses that can help to ensure that agencies are responsive to small businesses and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code, and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small businesses without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small businesses; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small businesses.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to ensure that the Office has the statutory independence and adequate financial resources to advocate for and on behalf of small business;

(2) to require that the Office report to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small businesses and the necessity for corrective action by the regulatory agency or the Congress;

(3) to provide a separate authorization for appropriations for the Office;

(4) to authorize the Office to report to the President and to the Congress regarding agency compliance with chapter 6 of title 5, United States Code; and

(5) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

**SEC. 4. OFFICE OF ADVOCACY.**

(a) IN GENERAL.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is amended by striking sections 201 through 203 and inserting the following:

**“SEC. 201. SHORT TITLE.**

“This title may be cited as the ‘Office of Advocacy Act’.

**“SEC. 202. DEFINITIONS.**

“In this title—

“(1) the term ‘Administration’ means the Small Business Administration;

“(2) the term ‘Administrator’ means the Administrator of the Small Business Administration;

“(3) the term ‘Chief Counsel’ means the Chief Counsel for Advocacy appointed under section 203; and

“(4) the term ‘Office’ means the Office of Advocacy established under section 203.

**“SEC. 203. ESTABLISHMENT OF OFFICE OF ADVOCACY.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established in the Administration an Office of Advocacy.

“(2) APPROPRIATION REQUESTS.—Each appropriation request prepared and submitted by the Administration under section 1108 of title 31, United States Code, shall include a separate request relating to the Office.

“(b) CHIEF COUNSEL FOR ADVOCACY.—

“(1) IN GENERAL.—The management of the Office shall be vested in a Chief Counsel for Advocacy, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of the office.

“(2) EMPLOYMENT RESTRICTION.—The individual appointed to the office of Chief Counsel may not serve as an officer or employee of the Administration during the 5-year period preceding the date of appointment.

“(3) REMOVAL.—The Chief Counsel may be removed from office by the President, and the President shall notify the Congress of any such removal not later than 30 days before the date of the removal, except that 30-day prior notice shall not be required in the case of misconduct, neglect of duty, malfeasance, or if there is reasonable cause to believe that the Chief Counsel has committed a crime for which a sentence of imprisonment can be imposed.

“(c) PRIMARY FUNCTIONS.—The Office shall—

“(1) examine the role of small business concerns in the economy of the United States and the contribution that small business concerns can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing the means by which new and untested products and services can be brought to the marketplace;

“(2) assess the effectiveness of Federal subsidy and assistance programs for small business concerns and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance programs designed to benefit all small business concerns;

“(3) measure the direct costs and other effects of government regulation of small business concerns, and make legislative, regulatory, and nonlegislative proposals for eliminating the excessive or unnecessary regulation of small business concerns;

“(4) determine the impact of the tax structure on small business concerns and make legislative, regulatory, and other proposals for altering the tax structure to enable all small business concerns to realize their potential for contributing to the improvement of the Nation’s economic well-being;

“(5) study the ability of financial markets and institutions to meet small business cred-

it needs and determine the impact of government demands on credit for small business concerns;

“(6) determine financial resource availability and recommend, with respect to small business concerns, methods for—

“(A) delivery of financial assistance to minority and women-owned enterprises, including methods for securing equity capital;

“(B) generating markets for goods and services;

“(C) providing effective business education, more effective management and technical assistance, and training; and

“(D) assistance in complying with Federal, State, and local laws;

“(7) evaluate the efforts of Federal agencies and the private sector to assist minority and women-owned small business concerns;

“(8) make such recommendations as may be appropriate to assist the development and strengthening of minority, women-owned, and other small business concerns;

“(9) recommend specific measures for creating an environment in which all businesses will have the opportunity—

“(A) to compete effectively and expand to their full potential; and

“(B) to ascertain any common reasons for small business successes and failures;

“(10) to determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate;

“(11) make recommendations and submit reports to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator with respect to issues and regulations affecting small business concerns and the necessity for corrective action by the Administrator, any Federal department or agency, or the Congress; and

“(12) evaluate the efforts of each department and agency of the United States, and of private industry, to assist small business concerns owned and controlled by veterans, as defined in section 3(q) of the Small Business Act (15 U.S.C. 632(q)), and small business concerns owned and controlled by service-disabled veterans, as defined in such section 3(q), and to provide statistical information on the utilization of such programs by such small business concerns, and to make appropriate recommendations to the Administrator and to the Congress in order to promote the establishment and growth of those small business concerns.

“(d) ADDITIONAL FUNCTIONS.—The Office shall, on a continuing basis—

“(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department or agency of the Federal Government that affects small business concerns;

“(2) counsel small business concerns on the means by which to resolve questions and problems concerning the relationship between small business and the Federal Government;

“(3) develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of this title and communicate such proposals to the appropriate Federal agencies;

“(4) represent the views and interests of small business concerns before other Federal agencies whose policies and activities may affect small business;

“(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small business concerns, and information on the means by which small

business concerns can participate in or make use of such programs and services; and

“(6) carry out the responsibilities of the Office under chapter 6 of title 5, United States Code.

“(e) OVERHEAD AND ADMINISTRATIVE SUPPORT.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.”

(b) REPORTS TO CONGRESS.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is amended by striking section 206 and inserting the following:

**“SEC. 206. REPORTS TO CONGRESS.**

“(a) ANNUAL REPORTS.—Not less than annually, the Chief Counsel shall submit to the President and to the Committees on Small Business of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives a report on agency compliance with chapter 6 of title 5, United States Code.

“(b) ADDITIONAL REPORTS.—In addition to the reports required under subsection (a) of this section and section 203(c)(11), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

“(c) PROHIBITION.—No report under this title shall be submitted to the Office of Management and Budget or to any other department or agency of the Federal Government for any purpose before submission of the report to the President and to the Congress.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

**“SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—There are authorized to be appropriated to the Office to carry out this title such sums as may be necessary for each fiscal year.

“(b) AVAILABILITY.—Any amount appropriated under subsection (a) shall remain available, without fiscal year limitation, until expended.”.

(d) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of enactment of this Act shall continue to serve in that position after such date in accordance with section 203 of the Office of Advocacy Act, as amended by this section.

Mr. KERRY. Mr. President, I am pleased to join with my friend and colleague, Chairman of the Senate Committee on Small Business, KIT BOND, in introducing the “Independent Office of Advocacy Act.” This legislation will help ensure the Small Business Administration’s (SBA) Office of Advocacy has the necessary autonomy to remain an independent voice for America’s small businesses. I would like to thank the Chairman and his staff for working with me and my staff to make the necessary changes to this legislation to garner bipartisan support.

This legislation is similar to a bill introduced by Chairman BOND, which I supported, during the 106th Congress. While this legislation received strong support in the Senate Committee on

Small Business and on the floor of the Senate, the House did not take any action. I am hopeful that this legislation will be enacted during the 107th Congress.

The Independent Office of Advocacy Act rewrites the law that created the Small Business Administration’s Office of Advocacy to allow for increased autonomy. It reaffirms the Office’s statutory and financial independence by preventing the President from firing the advocate without 30 days prior notice to Congress and by creating a separate authorization for the Office from that of SBA’s. It also states that the Chief Counsel shall be appointed without regard to political affiliation, and shall not have served in the Administration for a period of 5 years prior to the date of appointment.

The legislation also makes women-owned businesses an equal priority of the Office of Advocacy by adding women-owned business to the primary functions of the Office of Advocacy, wherever minority owned business appears. It also adds new reporting requirements and additional functions to the Office of Advocacy with regard to enforcement of the Small Business Regulatory Enforcement Fairness Act, SBREFA. The provisions regarding SBREFA are already a part of existing law in Chapter 6 Title 5 of US Code, and will now, rightly, be added to the statute establishing the Office of Advocacy.

But at its heart, this legislation will allow the Office of Advocacy to better represent small business interests before Congress, Federal agencies, and the Federal Government without fear of reprisal for disagreeing with the position of the current Administration.

For those of my colleagues without an intimate knowledge of the important role the Office of Advocacy and its Chief Counsel play in protecting and promoting America’s small businesses, I will briefly elaborate its important functions and achievements. From studying the role of small business in the U.S. economy, to promoting small business exports, to lightening the regulatory burden of small businesses through the Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement Fairness Act, SBREFA, the Office of Advocacy has a wide scope of authority and responsibility.

The U.S. Congress created the Office of Advocacy, headed by a Chief Counsel to be appointed by the President from the private sector and confirmed by the Senate, in June of 1976. The rationale was to give small businesses a louder voice in the councils of government.

Each year, the Office of Advocacy works to facilitate meetings for small business people with congressional staff and executive branch officials, and convenes ad hoc issue-specific meetings to discuss small business concerns. It has published numerous reports, compiled vast amounts of data and successfully lightened the regu-

latory burden on America’s small businesses. In the area of contracting, the Office of Advocacy developed PRO-Net, a database of small businesses used by contracting officers to find small businesses interested in selling to the Federal government.

The U.S. Congress, the Administration and of course, small businesses, have all benefitted from the work of the Office of Advocacy. For example, between 1998 and 2000, regulatory changes supported by the Office of Advocacy saved small businesses around \$20 billion in annual and one-time compliance costs.

Mr. President, small businesses remain the backbone of the U.S. economy, accounting for 99 percent of all employers, providing 75 percent of all net new jobs, and accounting for 51 percent of private-sector output. In fact, and this may surprise some of my colleagues, small businesses employ 38 percent of high-tech workers, an increasingly important sector in our economy.

Small businesses have also taken the lead in moving people from welfare to work and an increasing number of women and minorities are turning to small business ownership as a means to gain economic self-sufficiency. Put simply, small businesses represent what is best in the United States economy, providing innovation, competition and entrepreneurship.

Their interests are vast, their activities divergent, and the difficulties they face to stay in business are numerous. To provide the necessary support to help them, SBA’s Office of Advocacy needs our support.

The responsibility and authority given the Office of Advocacy and the Chief Counsel are crucial to their ability to be an effective independent voice in the Federal Government for small businesses. When the Senate Committee on Small Business held a Roundtable meeting about the Office of Advocacy with small business concerns on April 21, 1999, every person in the room was concerned about the present and future state of affairs for the Office of Advocacy. These small businesses asked us to do everything we could to protect and strengthen this important office. I believe this legislation accomplishes this important goal.

I have always been a strong supporter of the Office of Advocacy and I am pleased to join with Chairman BOND in introducing this legislation, which will ensure that it remains an independent and effective voice representing America’s small businesses.

By Mr. BOND (for himself and Mr. KERRY):

S. 396. A bill to provide for national quadrennial summits on small business and State summits on small business, to establish the White House Quadrennial Commission on Small Business, and for other purposes; to the Committee on Small Business.

Mr. BOND. Mr. President, it is with great pleasure that I am introducing

the White House Quadrennial Small Business Summit Act of 2001. This bill is designed to create a permanent independent commission that will carry-on the extraordinary work that has been accomplished by three White House Conferences on Small Business. The Small Business Commission will direct national and state Small business summits, and small business delegates from every state will attend the summits.

Last year, representatives of small businesses and organizers of prior White House Conferences on Small Business worked closely with the Committee on Small Business to develop legislation similar to the bill I am introducing today. The bill passed the Senate last year as part of the Small Business Reauthorization Act of 2000, S. 3121; however, it was dropped in Conference.

For the past 15 years, small businesses have been the fastest growing sector of the U.S. economy. When large businesses were restructuring and laying off significant numbers of workers, small businesses not only filled the gap, but their growth actually caused a net increase in new jobs. Today, small businesses employ over one-half of all workers in the United States, and they generate nearly 55 percent of the gross domestic product. Were it not for small businesses, our country could not have experienced the sustained economic upsurge that has been ongoing since 1992.

Because small businesses play such a significant role in our economy, in both rural towns and bustling inner cities, I believe it is important that the Federal government sponsor a national conference every four years to highlight the successes of small businesses and to focus national attention on the problems that may be hindering the ability of small businesses to start up and grow.

Small business ownership is, has been, and will continue to be the dream of millions of Americans. Countries from all over the world send delegations to the United States to study why our system of small business ownership is so successful, all the while looking for a way to duplicate our success in their countries. Because we see and experience the successes of small businesses on a daily basis, it is easy to lose sight of the very special thing we have going for us in the United States, where each of us can have the opportunity to own and run our own business.

The White House Quadrennial Small Business Summit Act of 2001 is designed to capture and focus our attention on small business every four years. In this way, we will take the opportunity to study what is happening throughout the United States to small businesses. In one sense, the bill is designed to put small business on a pinnacle so we can appreciate what they have accomplished. At the same time, and just as important, every four years we will have an opportunity to learn

from small businesses in each state what is not going well for them, such as, actions by the Federal government that hinder small business growth or state and local regulations that are a deterrent to starting a business.

My bill creates an independent, bipartisan White House Quadrennial Commission on Small Business, which will be made up of 8 small business advocates and the Small Business Administration's Chief Counsel for Advocacy. Every four years, during the first year following a presidential election, the President will name four National Commissioners. In the U.S. Senate and the House of Representatives, the Majority Leader and Minority Leader of each body will each name one National Commissioner.

Widespread participation from small businesses in each state will contribute to the work leading up to the national Small Business Summit. Under the bill, the Small Business Summit will take place one year after the Quadrennial Commissioners are appointed. The first act of the Commissioners will be to request that each Governor and each U.S. Senator name a small business delegate and alternate delegate from their respective states to the National Convention. Each U.S. Representative will be asked to name a small business delegate and alternative from his or her Congressional district. And the President will name a delegate and alternate from each state.

The delegates to the Small Business Summit must be owners or officers of small businesses. Prior to the national Small Business Summit, there will be individual State Summits at which additional delegates will be elected to attend the national Summit. Three delegates and three alternates will be elected from each Congressional district within the state.

The small business delegates will play a major role leading up to the Small Business Summit. We will be looking to the small business delegates to develop and highlight issues of critical concern to small businesses. The work at the state level by the small business delegates will need to be thorough and thoughtful to make the Small Business Summit a success.

My goal will be for the small business delegates to think broadly, that is, to think "out of the box." Their attention should include but not be restricted to the traditional issues associated with small business concerns, such as access to capital, tax reform and regulatory reform. In my role as Chairman of the Committee on Small Business, I will urge the delegates to focus on a wide array of issues that impact significantly on small businesses, including the importance of a solid education and the need for skilled, trained workers.

Once the small business delegates are selected, the Small Business Commission will serve as a resource to the delegates for issue development and for planning the State Conferences. The Small Business Commission will have a

modest staff, including an Executive Director, that will work full time to make the State and National Summits successes. A major resource to the Small Business Commission and its staff will be the Chief Counsel for Advocacy from the SBA. The Chief Counsel and the Office of Advocacy will serve as a major resource to the Small Business Commission, and in turn, to the small business delegates, by providing them with both substantive background information and other administrative materials in support of the State and National Summits.

Mr. President, small businesses generally do not have the resources to maintain full time representatives to lobby our Federal government. They are too busy running their businesses to devote much attention to educating government officials as to what is going well, what is going poorly, and what needs improvement for the small business community. The White House Quadrennial Small Business Summit will give small businesses an opportunity every four years to make its mark on the Congress and the Executive Branch. I urge each of my colleagues to review their proposal, and I hope they will agree to join me as co-sponsors of the "White House Quadrennial Small Business Summit Act of 2001."

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. 396

*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 "White House Quadrennial Small Business Summit Act of 2001".

**SEC. 2. DEFINITIONS.**

In this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "Chief Counsel" means the Chief Counsel for Advocacy of the Small Business Administration;

(3) the term "Small Business Commission" means the national White House Quadrennial Commission on Small Business established under section 6;

(4) the term "Small Business Summit"—

(A) means the White House Quadrennial Summit on Small Business conducted under section 3(a); and

(B) includes the last White House Conference on Small Business occurring before 2002;

(5) the term "small business" has the meaning given the term "small business concern" in section 3 of the Small Business Act;

(6) the term "State" means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands; and

(7) the term "State Summit" means a State Summit on Small Business conducted under section 3(b).

**SEC. 3. NATIONAL AND STATE QUADRENNIAL SUMMITS ON SMALL BUSINESS.**

(a) QUADRENNIAL SUMMITS.—There shall be a national White House Quadrennial Summit

on Small Business once every 4 years, to be held during the second year following each Presidential election, to carry out the purposes set forth in section 4.

(b) STATE SUMMITS.—Each Small Business Summit referred to in subsection (a) shall be preceded by a State Summit on Small Business, with not fewer than 1 such summit held in each State, and with not fewer than 2 such summits held in any State having a population of more than 10,000,000.

#### SEC. 4. PURPOSES OF SMALL BUSINESS SUMMITS.

The purposes of each Small Business Summit shall be—

(1) to increase public awareness of the contribution of small business to the national economy;

(2) to identify the problems of small business;

(3) to examine the status of minorities and women as small business owners;

(4) to assist small business in carrying out its role as the Nation's job creator;

(5) to assemble small businesses to develop such specific and comprehensive recommendations for legislative and regulatory action as may be appropriate for maintaining and encouraging the economic viability of small business and thereby, the Nation; and

(6) to review the status of recommendations adopted at the immediately preceding Small Business Summit.

#### SEC. 5. SUMMIT PARTICIPANTS.

(a) IN GENERAL.—To carry out the purposes set forth in section 4, the Small Business Commission shall conduct Small Business Summits and State Summits to bring together individuals concerned with issues relating to small business.

##### (b) SUMMIT DELEGATES.—

(1) QUALIFICATION.—Only individuals who are owners or officers of a small business shall be eligible for appointment or election as delegates (or alternates) to the Small Business Summit, or be eligible to vote in the selection of delegates at the State Summits pursuant to this subsection.

(2) APPOINTED DELEGATES.—Two months before the date of the first State Summit, there shall be—

(A) 1 delegate (and 1 alternate) appointed by the Governor of each State;

(B) 1 delegate (and 1 alternate) appointed by each Member of the House of Representatives, from the congressional district of that Member;

(C) 1 delegate (and 1 alternate) appointed by each Member of the Senate from the home State of that Member; and

(D) 53 delegates (and 53 alternates) appointed by the President, 1 from each State.

(3) ELECTED DELEGATES.—The participants at each State Summit shall elect 3 delegates and 3 alternates to the Small Business Summit for each congressional district within the State, or part of the State represented at the Summit, or not fewer than 9 delegates, pursuant to rules developed by the Small Business Commission.

(4) POWERS AND DUTIES.—Delegates to each Small Business Summit shall—

(A) attend the State summits in his or her respective State;

(B) elect a delegation chairperson, vice chairperson, and other leadership as may be necessary;

(C) conduct meetings and other activities at the State level before the date of the Small Business Summit, subject to the approval of the Small Business Commission; and

(D) direct such State level summits, meetings, and activities toward the consideration of the purposes set forth in section 4, in order to prepare for the next Small Business Summit.

(5) ALTERNATES.—Alternates shall serve during the absence or unavailability of the delegate.

(c) ROLE OF THE CHIEF COUNSEL.—The Chief Counsel shall, after consultation and in coordination with the Small Business Commission, assist in carrying out the Small Business Summits and State Summits required by this Act by—

(1) preparing and providing background information and administrative materials for use by participants in the summits;

(2) distributing issue information and administrative communications, electronically where possible through an Internet web site and e-mail, and in printed form if requested;

(3) maintaining an Internet web site and regular e-mail communications after each Small Business Summit to inform delegates and the public of the status of recommendations and related governmental activity; and

(4) maintaining, between summits, an active interim organization of delegate representatives from each region of the Administration, to advise the Chief Counsel on each of the major small business issue areas, and monitor the progress of the Summits' recommendations.

(d) EXPENSES.—Each delegate (and alternate) to each Small Business Summit and State Summit—

(1) shall be responsible for the expenses of that delegate related to attending the summits; and

(2) shall not be reimbursed either from funds made available pursuant to this section or the Small Business Act.

##### (e) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Small Business Commission shall appoint a Summit Advisory Committee, which shall be composed of 10 individuals who were participants at the most recently preceding Small Business Summit, to advise the Small Business Commission on the organization, rules, and processes of the Summits.

(2) PREFERENCE.—Preference for appointment under this subsection shall be given to individuals who have been active participants in the implementation process following the most recently preceding Small Business Summit.

(f) PUBLIC PARTICIPATION.—Small Business Summits and State Summits shall be open to the public, and no fee or charge may be imposed on any attendee, other than an amount necessary to cover the cost of any meal provided, plus, with respect to State Summits, a registration fee to defray the expense of meeting rooms and materials of not to exceed \$20 per person.

#### SEC. 6. WHITE HOUSE QUADRENNIAL COMMISSION ON SMALL BUSINESS.

(a) ESTABLISHMENT.—There is established the White House Quadrennial Commission on Small Business.

##### (b) MEMBERSHIP.—

(1) APPOINTMENT.—The Small Business Commission shall be composed of 9 members, including—

(A) the Chief Counsel;

(B) 4 members appointed by the President;

(C) 1 member appointed by the Majority Leader of the Senate;

(D) 1 member appointed by the Minority Leader of the Senate;

(E) 1 member appointed by the Majority Leader of the House of Representatives; and

(F) 1 member appointed by the Minority Leader of the House of Representatives.

(2) SELECTION.—Members of the Small Business Commission described in subparagraphs (B) through (F) of paragraph (1) shall be selected from among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of small business and the purposes set forth in section 4.

(3) TIME OF APPOINTMENT.—The appointments required by paragraph (1)—

(A) shall be made not later than 18 months before the opening date of each Small Business Summit; and

(B) shall expire 6 months after the date on which each Small Business Summit is convened.

(c) ELECTION OF CHAIRPERSON.—At the first meeting of the Small Business Commission, a majority of the members present and voting shall elect a member of the Small Business Commission to serve as the Chairperson.

(d) POWERS AND DUTIES OF COMMISSION.—The Small Business Commission—

(1) may enter into contracts with public agencies, private organizations, and academic institutions to carry out this Act;

(2) shall consult, coordinate, and contract with an independent, nonpartisan organization that—

(A) has both substantive and logistical experience in developing and organizing conferences and forums throughout the Nation with elected officials and other government and business leaders;

(B) has experience in generating private resources from multiple States in the form of event sponsorships; and

(C) can demonstrate evidence of a working relationship with Members of Congress from the majority and minority parties, and at least 1 Federal agency; and

(3) shall prescribe such financial controls and accounting procedures as needed for the handling of funds from fees and charges and the payment of authorized meal, facility, travel, and other related expenses.

(e) PLANNING AND ADMINISTRATION OF SUMMITS.—In carrying out the Small Business Summits and State Summits, the Small Business Commission shall consult with—

(1) the Chief Counsel;

(2) Congress; and

(3) such other Federal agencies as the Small Business Commission determines to be appropriate.

(f) REPORTS REQUIRED.—Not later than 6 months after the date on which each Small Business Summit is convened, the Small Business Commission shall submit to the President and to the Chairpersons and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives a final report, which shall—

(1) include the findings and recommendations of the Small Business Summit and any proposals for legislative action necessary to implement those recommendations; and

(2) be made available to the public.

(g) QUORUM.—Four voting members of the Small Business Commission shall constitute a quorum for purposes of transacting business.

(h) MEETINGS.—The Small Business Commission shall meet not later than 20 calendar days after the appointment of the initial members of the Small Business Commission, and not less frequently than every 30 calendar days thereafter.

(i) VACANCIES.—Any vacancy on the Small Business Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(j) EXECUTIVE DIRECTOR AND STAFF.—The Small Business Commission may appoint and compensate an Executive Director and such other personnel to conduct the Small Business Summits and State Summits as the Small Business Commission may determine to be advisable, without regard to title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the rate of pay for the Executive

Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(k) FUNDING.—Members of the Small Business Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Small Business Commission.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY OF FUNDS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out each Small Business Summit and the State Summits required by this Act, \$5,000,000, which shall remain available until expended. New spending authority or authority to enter contracts as provided in this title shall be effective only to such extent and in such amounts as are provided in advance in appropriations Acts.

(b) SPECIFIC EARMARK.—No amount made available to the Small Business Administration may be made available to carry out this title, other than amounts made available specifically for the purpose of conducting the Small Business Summits and State Summits.

By Mr. McCAIN (for himself, Mr. LEVIN, Mr. HAGEL, Mr. LIEBERMAN, Mr. KYL, Mr. REED, Mr. VOINOVICH, Mr. FEINGOLD, Mr. JEFFORDS, Mr. DEWINE, and Mr. KOHL):

S. 397. A bill to amend the Defense Base Closure and Realignment Act of 1990 to authorize additional rounds of base closures and realignments under the Act in 2003 and 2005, to modify certain authorities relating to closures and realignments under that Act; to the Committee on Armed Services.

Mr. McCAIN. Mr. President, I rise today to introduce legislation that would authorize two rounds of U.S. military installation realignment and closures to occur in 2003 and 2005. I am pleased to have Senators LEVIN, HAGEL, LIEBERMAN, KYL, REED, KOHL, VOINOVICH, FEINGOLD, JEFFORDS and DEWINE as co-sponsors of this bill.

Although I would prefer to say that this is a new idea—it isn't. In 1970, the Blue Ribbon Defense Panel, ("Fithugh Commission") made reference to "consolidation of military activities at fewer installations would contribute to more efficient operations and would produce substantial savings." In 1983, the President's Private Sector Survey on Cost Control, ("Grace Commission") made strong recommendations for military base closures. In 1997, the Quadrennial Defense Review recommended that, even after four base closure rounds in 1988, 1991, 1993 and 1995, the Armed Forces "must shed excess infrastructure." Likewise, the 1997 Defense Reform Initiative and the National Defense Panel "strongly urged Congress and the Department of Defense to move quickly to restore the base realignment and closure, BRAC, process."

Mr. President, we have too many military bases. The cold war is over. We will never have a requirement for as many bases as we have today. Clear-

ly we could save, according to most conservative estimates, somewhere between \$3 and \$4 billion a year of taxpayer dollars that are now expended unnecessarily on keeping military bases open.

The Congressional Budget Office, former Secretaries DICK CHENEY and William Cohen, nearly all the Service Chiefs and other respected defense experts have been consistent in their plea that the Pentagon be permitted to divest themselves of excess infrastructure beyond what was eliminated during the prior rounds of base closings. Through the end of 1998, the Pentagon had closed 97 major bases in the United States after four previous rounds of BRAC. Since then, it has closed none. Moreover, the savings from closing additional unneeded bases should be used for force modernization purposes.

We have heard over the last several years of the dire situation of our military forces. We have heard testimony of plunging readiness, modernization programs that are decades behind schedule, and quality of life deficiencies that are so great we cannot retain or recruit the personnel we need. As a result of this realization, there has been a groundswell of support in Congress for the Armed Forces, including a number of pay, retirement and medical benefit initiatives and the promise of a significant increase in defense spending.

All of these proposals are excellent starting points to help rebuild our military, but we must not forget that much of it will be in vain if the Department of Defense is obligated to maintain 23 percent excess capacity in infrastructure. When we actually look for the dollars to pay for these initiatives, it is unconscionable that some would not look to the billions of dollars to be saved by base realignment and closure. Only 30 percent of the defense budget funds combat forces, while the remaining 70 percent is devoted to support functions such as bases. Continuing to squander precious dollars in this manner will make it impossible for us to adequately modernize our forces for the future. The Joint Chiefs of Staff have stated repeatedly that they desire more opportunities to streamline the military's infrastructure. We cannot sit idly by and throw money and ideas at the problem when part of the solution is staring us in the face.

This proposed legislation offers a significant change to present law. Under this legislation, privatization in-place would be permitted only when explicitly recommended by the Commission. Additionally, the Secretary of Defense must consider local government input in preparing his list of desired base closures.

Total BRAC savings realized from the four previous closure rounds exceed total costs to date. Department of Defense figures suggest previous base closures will save, after one-time closing costs, \$15 billion through fiscal year 2001, \$25 billion through fiscal year 2003

and \$6.1 billion a year thereafter. Additional needed closures can save \$20 billion by 2015, and \$3 billion a year thereafter. Sooner or later these surplus bases will be closed anyway. The sooner the issue is addressed, the greater will be the savings that will ultimately go toward defense modernization and greater pay raises for service members.

Previous base closure rounds have had many success stories. For example, after England Air Force Base closed in 1992, Alexandria, Louisiana benefitted from the creation of over 1,400 jobs—nearly double the number of jobs lost. Across the U.S. about 60,000 new jobs have been created at closing military bases. At bases closed more than 2 years, nearly 75 percent of the civilian jobs have been replaced.

In Charleston, South Carolina, where the number of defense job losses, as a percentage of the work force, was greater than at any other base closure location, 23 major entities are reusing the former Navy facilities and providing more than 3,300 jobs and another 13 more civilian industrial applications are pending adding soon even more newly created jobs to that number. Additionally, roughly 75 percent of the 6 million square feet of leasable space on the base is occupied. This is comparable to the successes in my home state of Arizona with the closure of Williams Air Force Base in the Phoenix East Valley. This is not to say that base closures are easy for any community, but it does suggest that communities can and will continue to thrive.

We can continue to maintain a military infrastructure that we do not need, or we can provide the necessary funds to ensure our military can fight and win future wars. Every dollar we spend on bases we do not need is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old weapons systems, and advancing our military technology.

We must finish the job we started by authorizing these two final rounds of base realignment and closure. I urge my colleagues to join us in support of this critical bill and to work diligently throughout the year to put aside local politics for what is clearly in the best interest of our military forces.

Mr. President, I believe this measure is long overdue. I believe the additional \$3 to \$4 billion a year we could save by closing unnecessary bases could be used for the betterment of the quality of life of our men and women in the military. I believe it is hard to understand why, when the overwhelming majority of outside opinion, whether it be liberal or conservative organizations that are watchdogs of our defense policies and programs, all agree we have too many bases. We needed these bases during the cold war and we needed them very badly. They obviously contributed enormously to our ability to win the cold war. No one envisions future threats that would require the

number of bases that are part of our military establishment today.

I hope that the chairmen of the Armed Services Committee in past years who have strongly opposed base closing rounds will now join with me and others in seeing this legislation through the Armed Services Committee and to the floor of the Senate.

It makes sense. I believe that the record is replete with examples of bases that have been closed which ultimately after a period of a few years have ended up of greater benefit to the surrounding communities than when the bases were military bases. But more importantly than that, we simply can't afford some of them as we make the tough decisions and follow the President's guidance on the fundamental reevaluation of our systems technology and weapons systems that we need to make in order to meet the challenges of the post-cold-war era. A part of that is to make available as much funding as possible not only for the quality of life of the men and women in the military but for our ability to develop a viable missile defense system, and to bring to our military the best equipment that this Nation's technology can provide.

I hope we will move on this issue. I anticipate, hopefully, that the administration will also, again as past administrations have, support another round of base closings.

I ask unanimous consent the bill be referred to the Committee on Armed Services.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be appropriately referred.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill to authorize two additional base realignment and closure rounds be printed in the RECORD.

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

S. 397

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

**SECTION 1. AUTHORITY TO CARRY OUT BASE CLOSURE ROUNDS IN 2003 AND 2005.**

(a) COMMISSION MATTERS.—

(1) APPOINTMENT.—Subsection (c)(1) of section 2902 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2867 note) is amended—

(A) in subparagraph (B)—

(i) by striking “and” at the end of clause (ii);

(ii) by striking the period at the end of clause (iii) and inserting a semicolon; and

(iii) by adding at the end the following new clauses (iv) and (v):

“(iv) by no later than January 24, 2003, in the case of members of the Commission whose terms will expire at the end of the first session of the 108th Congress; and

“(v) by no later than March 15, 2005, in the case of members of the Commission whose terms will expire at the end of the first session of the 109th Congress.”; and

(B) in subparagraph (C), by striking “or for 1995 in clause (iii) of such subparagraph” and inserting “, for 1995 in clause (iii) of that

subparagraph, for 2003 in clause (iv) of that subparagraph, or for 2005 in clause (v) of that subparagraph”.

(2) MEETINGS.—Subsection (e) of that section is amended by striking “and 1995” and inserting “1995, 2003, and 2005”.

(3) STAFF.—Subsection (i)(6) of that section is amended in the matter preceding subparagraph (A) by striking “and 1994” and inserting “, 1994, and 2004”.

(4) FUNDING.—Subsection (k) of that section is amended by adding at the end the following new paragraph (4):

“(4) If no funds are appropriated to the Commission by the end of the second session of the 107th Congress for the activities of the Commission in 2003 or 2005, the Secretary may transfer to the Commission for purposes of its activities under this part in either of those years such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.”.

(5) TERMINATION.—Subsection (l) of that section is amended by striking “December 31, 1995” and inserting “December 31, 2005”.

(b) PROCEDURES.—

(1) FORCE-STRUCTURE PLAN.—Subsection (a)(1) of section 2903 of that Act is amended by striking “and 1996,” and inserting “1996, 2004, and 2006.”.

(2) SELECTION CRITERIA.—Subsection (b) of such section 2903 is amended—

(A) in paragraph (1), by inserting “and by no later than December 31, 2001, for purposes of activities of the Commission under this part in 2003 and 2005,” after “December 31, 1990.”; and

(B) in paragraph (2)(A)—

(i) in the first sentence, by inserting “and by no later than February 15, 2002, for purposes of activities of the Commission under this part in 2003 and 2005,” after “February 15, 1991.”; and

(ii) in the second sentence, by inserting “, or enacted on or before March 31, 2002, in the case of criteria published and transmitted under the preceding sentence in 2001” after “March 15, 1991”.

(3) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c)(1) of such section 2903 is amended by striking “and March 1, 1995,” and inserting “March 1, 1995, March 14, 2003, and May 16, 2005.”.

(4) COMMISSION REVIEW AND RECOMMENDATIONS.—Subsection (d) of such section 2903 is amended—

(A) in paragraph (2)(A), by inserting “or by no later than July 7 in the case of recommendations in 2003, or no later than September 8 in the case of recommendations in 2005,” after “pursuant to subsection (c).”;

(B) in paragraph (4), by inserting “or after July 7 in the case of recommendations in 2003, or after September 8 in the case of recommendations in 2005,” after “under this subsection.”; and

(C) in paragraph (5)(B), by inserting “or by no later than May 1 in the case of such recommendations in 2003, or no later than July 1 in the case of such recommendations in 2005,” after “such recommendations.”.

(5) REVIEW BY PRESIDENT.—Subsection (e) of such section 2903 is amended—

(A) in paragraph (1), by inserting “or by no later than July 22 in the case of recommendations in 2003, or no later than September 23 in the case of recommendations in 2005,” after “under subsection (d).”;

(B) in the second sentence of paragraph (3), by inserting “or by no later than August 18 in the case of 2003, or no later than October 20 in the case of 2005,” after “the year concerned.”; and

(C) in paragraph (5), by inserting “or by September 3 in the case of recommendations in 2003, or November 7 in the case of recommendations in 2005,” after “under this part.”.

(c) RELATIONSHIP TO OTHER BASE CLOSURE AUTHORITY.—Section 2909(a) of that Act is amended by striking “December 31, 1995,” and inserting “December 31, 2005.”.

**SEC. 2. MODIFICATION OF BASE CLOSURE AUTHORITIES UNDER 1990 BASE CLOSURE LAW.**

(a) COST SAVINGS AND RETURN ON INVESTMENT UNDER SECRETARY OF DEFENSE SELECTION CRITERIA.—Subsection (b) of section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2867 note) is amended by adding at the end the following:

“(3) Any selection criteria proposed by the Secretary relating to the cost savings or return on investment from the proposed closure or realignment of a military installation shall be based on the total cost and savings to the Federal Government that would result from the proposed closure or realignment of such military installation.”.

(b) DEPARTMENT OF DEFENSE RECOMMENDATIONS TO COMMISSION.—Subsection (c) of such section 2903 is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(2) by inserting after paragraph (3) the following new paragraph (4):

“(4)(A) In making recommendations to the Commission under this subsection in any year after 2000, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

“(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan and final criteria otherwise applicable to such recommendations under this section.

“(C) The recommendations made by the Secretary under this subsection in any year after 2000 shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to an installation covered by such recommendations. The statement shall set forth the reasons for the result.”; and

(3) in paragraph (7), as so redesignated—

(A) in the first sentence, by striking “paragraph (5)(B)” and inserting “paragraph (6)(B)”; and

(B) in the second sentence, by striking “24 hours” and inserting “48 hours”.

(c) PRIVATIZATION IN PLACE.—Section 2904(a) of that Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

“(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in each such report after 2000 only if privatization in place is a method of closure or realignment of the installation specified in the recommendation of the Commission in such report and is determined to be the most-cost effective method of implementation of the recommendation.”.

**SEC. 3. TECHNICAL AND CLARIFYING AMENDMENTS.**

(a) COMMENCEMENT OF PERIOD FOR NOTICE OF INTEREST IN PROPERTY FOR HOMELESS.—Section 2905(b)(7)(D)(ii)(I) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2867 note) is amended by striking “that date” and inserting “the date of publication of such determination in a newspaper

of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV).

(b) OTHER CLARIFYING AMENDMENTS.—

(1) That Act is further amended by inserting “or realignment” after “closure” each place it appears in the following provisions:

- (A) Section 2905(b)(3).
- (B) Section 2905(b)(5).
- (C) Section 2905(b)(7)(B)(iv).
- (D) Section 2905(b)(7)(N).
- (E) Section 2910(10)(B).

(2) That Act is further amended by inserting “or realigned” after “closed” each place it appears in the following provisions:

- (A) Section 2905(b)(3)(C)(ii).
- (B) Section 2905(b)(3)(D).
- (C) Section 2905(b)(3)(E).
- (D) Section 2905(b)(4)(A).
- (E) Section 2905(b)(5)(A).
- (F) Section 2910(9).
- (G) Section 2910(10).

(3) Section 2905(e)(1)(B) of that Act is amended by inserting “, or realigned or to be realigned,” after “closed or to be closed”.

Mr. LEVIN. Mr. President, I am pleased to once again join my colleague from the Armed Services Committee, Senator MCCAIN, along with our cosponsors Senators LIEBERMAN, VOINOVICH, REED, KYL, HAGEL, KOHL, FEINGOLD, DEWINE, and JEFFORDS in introducing legislation that allows the Department of Defense to close excess, unneeded military bases.

For the past four years, former Secretary of Defense Bill Cohen asked the Congress to authorize two additional base closure rounds. But Congress did not act.

We have a new Congress, a new President, and a new Secretary of Defense, but we also have some unfinished business to attend to. Base closure is one of the most important examples. And as we promised we would be, Senator MCCAIN and I and our cosponsors are back.

General Shelton, the Chairman of the Joint Chiefs of Staff, and the other chiefs have repeatedly said we need to close more military bases, and I expect they will once again tell us we need to realign or close more bases when the President’s budget is submitted later this year.

The legislation we are introducing today is intended to start the debate, and I hope the administration will make a similar legislative proposal to the Congress.

This legislation calls for two additional base closure rounds, in 2003 and 2005, that would basically follow the same procedures that were used in 1991, 1993 and 1995, with two notable exceptions.

First, the whole process would start and finish two months later in 2005 than it would in 2003 and did in previous rounds, to give a new President, if there is one in 2005, sufficient time to nominate commissioners.

Second, under our legislation, privatization in place would not be permitted at closing installation unless the Base Closure Commission expressly recommends it.

In a November 1998 report, the General Accounting Office listed five key elements of the base closure process

that “contributed to the success of prior rounds”. Our legislation retains all of those key elements. GAO also stated that they “have not identified any long-term readiness problems that were related to domestic base realignments and closures, that “DOD continues to retain excess capacity” and that “substantial savings are expected” from base closures.

Mr. President, every expert and every study agrees on the basic facts—the Defense Department has more bases than it needs, and closing bases saves substantial money over time, usually within a few years.

The April 1998 report the Department of Defense provided to the Congress clearly demonstrated that we have excess capacity. For example, the report showed that by 2003:

The Army will have reduced its classroom training personnel by 43 percent, while classroom space will have been reduced by only 7 percent.

The Air Force will have reduced the number of fighters and other small aircraft by 53 percent since 1989, while the base structure for those aircraft will be only 35 percent smaller.

The Navy will have 33 percent more hangars for its aircraft than it requires.

Experts inside and outside of Government agree with the Defense Department on this issue. As the Congressional Budget Office stated in a letter to me, “the [DoD] report’s basic message is consistent with CBO’s own conclusions: past and future BRAC rounds will lead to significant savings for DoD.”

Every year we delay another base closure round, we waste about \$1.5 billion in annual savings that we can never recoup. And every dollar we waste on bases we do not need is a dollar we cannot spend on things we do need.

The new administration is now undertaking several strategy reviews. It is possible that those reviews will conclude that the military we want for the future needs exactly the base structure we have today and that all our forces are in exactly the right place and none of them need to be realigned to different locations. It is possible that they will conclude Secretary Cohen and General Shelton didn’t know what they were talking about and we really don’t have any excess infrastructure.

I will be astounded if any serious defense review reaches such a conclusion. But even if it did, it is important to understand that this legislation does not prejudge or pre-empt these reviews. What it does is prepare us to act whatever the result of those reviews.

Should the new administration decide they don’t want to propose any closures or realignments, this bill would not force them to. It authorizes two more rounds; it does not require them. And the Defense Department would have ample time to conclude their reviews before the first round would start in 2003, so the results of

their strategy reviews could be fully incorporated into the force structure plan the new rounds would be based on.

I urge my colleagues to support this legislation.

By Mr. KERRY (for himself, Mr. GRASSLEY, Mr. SARBANES, MR. LEVIN, and Mr. ROCKEFELLER):

S. 398. A bill to combat international money laundering and to protect the United States financial system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KERRY. Mr. President, I believe the United States must do more to stop international criminals from legitimizing their profits from the sale of drugs, from terror or from organized crime by laundering money into the United States financial system.

That is why today, along with SENATORS GRASSLEY, SARBANES, LEVIN and ROCKEFELLER, I AM INTRODUCING THE INTERNATIONAL COUNTER-MONEY LAUNDERING AND FOREIGN ANTICORRUPTION ACT OF 2001, WHICH WILL GIVE THE SECRETARY OF THE TREASURY THE TOOLS TO CRACK DOWN ON INTERNATIONAL MONEY LAUNDERING HAVENS AND PROTECT THE INTEGRITY OF THE U.S. FINANCIAL SYSTEM FROM THE INFUX OF TAINTED MONEY FROM ABROAD. DURING THE 106TH CONGRESS, THE HOUSE BANKING COMMITTEE REPORTED OUT THIS LEGISLATION WITH A BIPARTISAN 33-1 VOTE.

Money laundering is the financial side of international crime. It occurs when criminals seek to disguise money that was illegally obtained. It allows terrorists, drug cartels, organized crime groups, corrupt foreign government officials and others to preserve the profit from their illegal activities and to finance new crimes. Money laundering provides the fuel that allows criminal organizations to conduct their ongoing affairs. It has a corrosive effect on international markets and financial institutions. Money launderers rely upon the existence of jurisdictions outside the United States that offer bank secrecy and special tax or regulatory advantages to non residents, and often complement those advantages with weak financial supervision and regulatory regimes.

Today, the global volume of laundered money is estimated to be 2-5 percent of global Gross Domestic Product, between \$600 billion and \$1.5 trillion. The effects of money laundering extend far beyond the parameters of law enforcement, creating international political issues while generating domestic political crises.

International criminals have taken advantage of the advances in technology and the weak financial supervision in some jurisdictions to smuggle their illicit funds into the United States financial system. Globalization and advances in communications and technologies allow criminals to move their illicit gains faster and farther than ever before. The ability to launder money into the United States through these jurisdictions has allowed corrupt

foreign officials to systematically divert public assets for their personal use, which in turn undermines U.S. efforts to promote stable democratic institutions and vibrant economies abroad.

In December 2000, a federal interagency working group in support of the President's International Crime Control Strategy released an International Crime Threat Assessment. This report states that international banking and financial systems are currently being used to legitimize and transfer criminal proceeds and that huge sums of money are laundered in the world's largest financial markets including the United States. The report warns that international criminal groups will use changes in technology and the world economy to enhance their capability to launder and move money and may be able to cause significant disruption to international financial systems.

In October 2000, the General Accounting Office determined that Euro-American Corporate Services, Inc. had formed more than 2,000 corporations for Russian brokers. From 1991 through January 2000, more than \$1.4 billion in wire transfer transactions was deposited into 236 accounts for these corporations opened at two United States banks. More than half of these funds were then transferred out of the U.S. banking system. The GAO believes that these banking activities raise questions about whether the U.S. banks were used to launder money.

In February 2000, State and Federal regulators formally sanctioned the Bank of New York for "deficiencies" in its anti-money laundering practices including lax auditing and risk management procedures involving their international banking business. The sanctions were based on the Bank of New York's involvement in an alleged money laundering scheme where more than \$7 billion in funds were transmitted from Russia into the bank. Federal investigators are currently attempting to tie the \$7 billion to criminal activities in Russia such as corporate theft, political graft or racketeering.

In November 1999, the minority staff of the Senate Governmental Affairs Subcommittee on Investigations released a report on private banking and money laundering. The report describes a number of incidents where high level government officials have used private banking accounts with U.S. financial institutions to launder millions of dollars from foreign governments. The report details how Raul Salinas, brother of former President of Mexico, Carlos Salinas, used private bank accounts to launder money out of Mexico. Representatives from Citigroup testified at a Subcommittee hearing that the bank had been slow to correct controls over their private banking accounts.

Earlier this month, the Minority Staff of the U.S. Senate Permanent Subcommittee on Investigations, head-

ed by Senator CARL LEVIN, released a report that reveals that most U.S. banks lack appropriate anti-money laundering safeguards on their correspondent accounts. This report proves that high risk foreign banks that are denied their own correspondent accounts at U.S. banks can get the same access by opening correspondent accounts at other foreign banks that have U.S. accounts. The report recommends that U.S. regulators and law enforcement offer increased assistance to help banks identify high-risk foreign banks.

During the 1980s, as Chairman of the Senate Permanent Subcommittee on Investigations, I began an investigation of the Bank of Credit and Commerce International (BCCI), and uncovered a complex money laundering scheme. Unlike any ordinary bank, BCCI was from its earliest days made up of multiplying layers of entities, related to one another through an impenetrable series of holding companies, affiliates, subsidiaries, banks-within-banks, insider dealings and nominee relationships.

By fracturing corporate structure, record keeping, regulatory review, and audits, the complex BCCI family of entities was able to evade ordinary legal restrictions on the movement of capital and goods as a matter of daily practice and routine. In designing BCCI as a vehicle fundamentally free of government control, its creators developed an ideal mechanism for facilitating illicit activity by others.

BCCI's used this complex corporate structure to commit fraud involving billions of dollars; and launder money for their clients in Europe, Africa, Asia and the Americas. Fortunately, we were able to bring many of those involved in BCCI to justice. However, my investigation clearly showed that rogue financial institutions have the ability to circumvent the laws designed to stop financial crimes.

In recent years, the U.S. and other well-developed financial centers have been working together to improve their anti-money laundering regimes and to set international anti-money laundering standards. Back in 1988, I included a provision in the State Department Reauthorization bill that requires major money laundering countries to adopt laws similar to our own on reporting currency or face sanctions. This provision led to Panama and Venezuela negotiating what were called *Kerry agreements* with the United States decreasing their vulnerability to the placement of U.S. currency by drug traffickers in the process.

Unfortunately, other nations—some small, remote islands—have moved in the other direction. Many have passed laws that provide for excessive bank secrecy, anonymous company incorporation, economic citizenship, and other provisions that directly conflict with well-established international anti-money laundering standards. In doing

so, they have become money laundering havens for international criminal networks. Some even blatantly advertise the fact that their laws protect anyone doing business from U.S. law enforcement.

Last year, the Financial Action Task Force, an intergovernmental body established to develop and promote policies to combat financial crime, released a report naming fifteen jurisdictions—including the Bahamas, The Cayman Islands, Russia, Israel, and the Philippines—that have failed to take adequate measures to combat international money laundering. This is a clear warning to financial institutions in the United States that they must begin to scrutinize many of their financial transactions with customers in these countries. Soon, the Financial Action Task Force will develop bank advisories and criminal sanctions that effectively drive legitimate financial business from these nations, depriving them of a lucrative source of tax revenue. This report has provided important information that governments and financial institutions around the world should learn from in developing their own anti-money laundering laws and policies.

Last year, the Financial Stability Forum released a report that categorizes offshore financial centers according to their perceived quality of supervision and degree of regulatory cooperation. The Organization of Economic Cooperation and Development (OECD) began a new crackdown on harmful tax competition. Members of the European Union reached an agreement in principle on sweeping changes to bank secrecy laws, intended to bring cross-border investment income within the net of tax authorities.

The actions by the Financial Action Task Force, the European Union and others show a renewed international focus and commitment to curbing financial abuse around the world. I believe the United States has a similar obligation to use this new information to update our anti-money laundering statutes.

The International Counter-Money Laundering and Anticorruption Act of 2001, which I am introducing today, would provide the tools the U.S. needs to crack down on international money laundering havens and protect the integrity of the U.S. financial system from the influx of tainted money from abroad. The bill provides for actions that will be graduated, discretionary, and targeted, in order to focus actions on international transactions involving criminal proceeds, while allowing legitimate international commerce to continue to flow unimpeded. It will give the Secretary of the Treasury—acting in consultation with other senior government officials and the Congress—the authority to designate a specific foreign jurisdiction, foreign financial institution, or class of international transactions as being of "primary money laundering concern."

Then, on a case-by-case basis, the Secretary will have the option to use a series of new tools to combat the specific type of foreign money laundering threat we face. In some cases, the Secretary will have the option to require banks to pierce the veil of secrecy behind which foreign criminals hide. In other cases, the Secretary will have the option to require the identification those using a foreign bank's correspondent or payable-through accounts. If these transparency provisions were deemed to be inadequate to address the specific problem identified, the Secretary would have the option to restrict or prohibit U.S. banks from continuing correspondent or payable-through banking relationships with money laundering havens and rogue foreign banks. Through these steps, the Secretary will help prevent laundered money from slipping undetected into the U.S. financial system and, as a result, increase the pressure on foreign money laundering havens to bring their laws and practices into line with international anti-money laundering standards. The passage of this legislation will make it much more difficult for international criminal organizations to launder the proceeds of their crimes into the United States.

This bill fills in the current gap between bank advisories and International Emergency Economic Powers Act, IEEPA, sanctions by providing five new intermediate measures. Under current law, the only counter-money laundering tools available to the federal government are advisories, an important but relatively limited measure instructing banks to pay close attention to transactions that involve a given country, and full-blown economic sanctions under the IEEPA. This legislation gives five additional measures to increase the government's ability to apply pressure effectively against targeted jurisdictions or institutions.

This legislation will in no way jeopardize the privacy of the American public. The focus is on foreign jurisdictions, financial institutions and classes of transactions that present a threat to the United States, not on American citizens. The actions that the Secretary of the Treasury is authorized to take are designated solely to combat the abuse of our banks by specifically identified foreign money laundering threats. This legislation is in no way similar to the Know-Your-Customer regulations that were proposed by bank regulators in 1999. Further, the intent of this legislation is not to add additional regulatory burdens on financial institutions, but, to give the Secretary of the Treasury the ability to take action against existing money laundering threats.

Let me repeat, this legislation only gives the discretion to use these tools to the Secretary of the Treasury. There is no automatic trigger that forces action whenever evidence of money laundering is determined. Before any action is taken, the Secretary of the Treas-

ury, in consultation with other key government officials, must first determine whether a specific country, financial institution or type of transaction is of primary money laundering concern. The Treasury Secretary will develop a calibrated response that will consider the effectiveness of the measure to address the threat, whether other countries are taking similar steps, and whether the response will cause harm to U.S. financial institutions and other firms.

This legislation will strengthen the ability of the Secretary to combat international money laundering and help protect the integrity of the U.S. financial system. This bill has been supported by the heads of all the major federal law enforcement agencies.

Today, advances in technology are bringing the world closer together than ever before and opening up new opportunities for economic growth. However, with these new advantages come equally important obligations. We must do everything possible to insure that the changes in technology do not give comfort to international criminals by giving them new ways to hide the financial proceeds of their crimes. This legislation is a first step toward limiting the scourge of money laundering and will help stop the development of international criminal organizations. I believe this legislation deserves consideration by the Senate during the 107th Congress.

Mr. SARBANES. Mr. President, I am pleased to join Senators KERRY, GRASSLEY, and LEVIN in introducing the International Counter-Money Laundering and Foreign Anti-Corruption Act of 2001, "ICMLA". This legislation is identical to a bill I co-sponsored last year.

Money laundering poses an ongoing threat to the financial stability of the U.S. It is estimated by the Department of the Treasury that the global volume of laundered money accounts for between 2-5 percent of the global GDP. Although serious efforts to combat international money laundering began in the mid-1980's, recent scandals about the involvement of some the most prominent U.S. banks in money laundering schemes have highlighted key weaknesses in current laws.

The ICMLA is designed to bolster the United States' ability to counter the laundering of the proceeds of drug trafficking, organized crime, terrorism and official corruption from abroad. The bill broadens the authority of the Secretary of the Treasury, ensures that banking transactions and financial relationship do not contravene the purposes of current anti-money laundering statutes, provides a clear mandate for subjecting foreign jurisdictions that facilitate money laundering to special scrutiny, and enhances reporting of suspicious activities. The bill similarly strengthens current measures to prevent the use of the U.S. financial system for personal gain by corrupt foreign officials and to facilitate the repa-

triation of any stolen assets to the citizens of countries to whom such assets belong.

First, Section 101 of the ICMLA gives the Secretary of the Treasury, in consultation with other key government officials, discretionary authority to impose five new "special measures" against foreign jurisdictions and entities that are of "primary money laundering concern" to the United States. Under current law, the only counter-money laundering tools available to the federal government are advisories, an important but relatively limited measure instructing banks to pay close attention to transactions that involve a given country, and full-blown economic sanctions under the International Emergency Economic Powers Act, "IEEPA". The five new intermediate measures will increase the government's ability to apply well-calibrated pressure against targeted jurisdictions or institutions. These new measures include: 1. requiring additional record keeping/reporting on particular transactions, 2. requiring the identification of the beneficial foreign owner of a U.S. bank account, 3. requiring the identification of those individuals using a U.S. bank account opened by a foreign bank to engage in banking transactions a "payable-through account", 4. requiring the identification of those using a U.S. bank account established to receive deposits and make payments on behalf of a foreign financial institution, a "correspondent account", and 5. restricting or prohibiting the opening or maintaining of certain correspondent accounts. The Democratic staff of the Permanent Subcommittee on Investigations of the Senate Governmental Affairs Committee recently completed an investigation and published results critical of certain correspondent banking activities.

Second, the bill seeks to enhance oversight into illegal activities by clarifying that the "safe harbor" from civil liability for filing a Suspicious Activity Report, "SAR", applies in any litigation, including suit for breach of contract or in an arbitration proceeding. Under the Bank Secrecy Act, "BSA", any financial institution or officer, director, employee, or agent of a financial institution is protected against private civil liability for filing a SAR. Section 201 of the bill amends the BSA to clarify the prohibition on disclosing that a SAR has been filed. These reports are the cornerstone of our nation's money-laundering efforts because they provide the information necessary to alert law enforcement to illegal activity.

Third, the bill enhances enforcement of Geographic Targeting Orders, "GTO". These orders lower the dollar thresholds for reporting transactions within a defined geographic area. Section 202 of the bill clarifies that civil and criminal penalties for violations of the Bank Secrecy Act and its regulations also apply to reports required by

GTO's. In addition, the section clarifies that structuring a transaction to avoid a reporting requirement by a GTO is a criminal offense and extends the presumptive GTO period from 60 to 180 days.

Fourth, Section 203 of the bill permits a bank, upon request of another bank, to include suspicious illegal activity in written employment references. Under this provision, banks would be permitted to share information concerning the possible involvement of a current or former officer or employee in potentially unlawful activity without fear of civil liability for sharing the information.

Finally, Title III of the bill addresses corruption by foreign officials and ruling elites. Earlier this year, the Secretary of the Treasury, in consultation with the Attorney General and the financial services regulators, issued guidelines to financial institutions operating in the U.S. on appropriate practices and procedures to reduce the likelihood that such institutions could facilitate proceeds expropriated by or on behalf of foreign senior government officials. Title III would help build upon efforts to combat corruption by foreign officials and ruling elites. It provides that the U.S. government should make clear that it will take all steps necessary to identify the proceeds of foreign government corruption which have been deposited in U.S. financial institutions and return such proceeds to the citizens of the country to whom such assets belong. It also encourages the U.S. to continue to actively and publicly support the objectives of the Financial Action Task Force on Money Laundering with regard to combating international money laundering.

The ICMLA addresses many of the shortcomings of current law. The Secretary of Treasury is granted additional authority to require greater transparency of transactions and accounts as well as to narrowly target penalties and sanctions. The reporting and collection of additional information on suspected illegal activity will greatly enhance the ability of bank regulators and law enforcement to combat the laundering of drug money, proceeds from corrupt regimes, and other illegal activities.

The House Banking Committee passed the identical anti-money laundering bill by a vote of 31 to 1 on June 8, 2000. I hope that we can move this legislation expeditiously in the Senate.

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

S. 399. A bill to provide for fire sprinkler systems, or other fire suppression or prevention technologies, in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories; to the Committee on Health, Education, Labor, and Pensions.

Mr. EDWARDS. Mr. President, I rise today along with my colleague Senator DODD to re-introduce the College Fire

Prevention Act. This measure would provide federal matching grants for the installation of fire sprinkler systems in college and university dormitories and fraternity and sorority houses. I believe the time is now to address the sad situation of deadly fires that occur in our children's college living facilities.

The tragic fire that occurred at Seton Hall University on Wednesday January 19th, 2000 will not be long forgotten. Sadly, three freshman, all 18 years old, died. Fifty-four students, two South Orange firefighters and two South Orange police officers were injured. The dormitory, Boland Hall, was a six-story, 350 room structure built in 1952 that housed approximately 600 students. Astonishingly, the fire was contained to the third floor lounge of Boland Hall. This dormitory was equipped with smoke alarms but no sprinkler system.

Unfortunately, the Boland Hall fire was not the first of its kind. And it reminded many people in North Carolina of their own tragic experience with dorm fires. In 1996, on Mother's Day and Graduation Day, a fire in the Phi Gamma Delta fraternity house at the University of North Carolina at Chapel Hill killed five college juniors and injured three others. The 3-story plus basement fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

Sadly, there have been countless other dorm fires. On December 9, 1997, a student died in a dormitory fire at Greenville College in Greenville, Illinois. The dormitory, Kinney Hall, was built in the 1960s and had no fire sprinkler system. On January 10, 1997, a student died at the University of Tennessee at Martin. The dormitory, Ellington Hall, had no fire sprinkler system. On January 3, 1997 a student died in a dormitory fire at Central Missouri State University in Warrensburg, Missouri. On October 21, 1994, five students died in a fraternity house fire in Bloomsburg, Pennsylvania. The list goes on and on. In a typical year between 1980 and 1998, the National Fire Protection Association estimates there were an average of 1,800 fires at dormitories, fraternities, and sororities, involving 1 death, 70 injuries, and 8 million dollars in property damage.

So now we must ask, what can be done? What can we do to curtail these tragic fires from taking the lives of our children, our young adults? We should focus our attention on the lack of fire sprinklers in college dormitories and fraternity and sorority houses. Sprinklers save lives. Indeed, the National Fire Protection Association has never recorded a fire that killed more than 2 people in a public assembly, educational, institutional, or residential building where a sprinkler system was operating properly.

Despite the clear benefits of sprinklers, many college dorms do not have

them. New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings. In 1998, 93 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 34 percent of them had fire sprinklers present.

At my state's flagship university at Chapel Hill, for example, only six of the 29 residence halls have sprinklers. A report published by The Raleigh News & Observer in the wake of the Seton Hall fire also noted that only seven of 19 dorms at North Carolina State University are equipped with the life-saving devices, and there are sprinklers in two of the 10 dorms at North Carolina Central University. At Duke University, only five of 26 dorms have sprinklers.

The legislation I introduce today authorizes the Secretary of Education, in consultation with the United States Fire Administration, to award grants to States, private or public colleges or universities, fraternities, or sororities to assist them in providing fire sprinkler systems for their student housing and dormitories. These entities would be required to produce matching funds equal to one-half of the cost. This legislation authorizes \$100 million for fiscal years 2002 through 2006.

In North Carolina, we decided to initiate a drive to install sprinklers in our public college and university dorms. The overall cost is estimated at 57.5 million dollars. Given how much it is going to cost North Carolina's public colleges and universities to install sprinklers, I think it's clear that the \$100 million that this measure authorizes is just a drop in the bucket. But my hope is that by providing this small incentive we can encourage more colleges to institute a comprehensive review of their dorm's fire safety and to install sprinklers. All they need is a helping hand. With this modest measure of prevention, we can help prevent the needless and tragic loss of young lives.

Parents should not have to worry about their children living in fire traps. When we send our children away to college, we are sending them to a home away from home where hundreds of other students eat, sleep, burn candles, use electric appliances and smoke. We must not compromise on their safety. In short, the best way to ensure the protection of our college students is to install fire sprinklers in our college dormitories and fraternity and sorority houses. I ask all of my colleagues to join me in supporting this important legislation. Thank you.

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

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

S. 399

*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 “College Fire Prevention Act”.

**SEC 2. FINDINGS.**

Congress makes the following findings:

(1) On Wednesday, January 19, 2000, a fire occurred at a Seton Hall University dormitory. Three male freshmen, all 18 years of age, died. Fifty-four students, 2 South Orange firefighters, and 2 South Orange police officers were injured. The dormitory was a 6-story, 350-room structure built in 1952, that housed approximately 600 students. It was equipped with smoke alarms but no fire sprinkler system.

(2) On Mother’s Day 1996 in Chapel Hill, North Carolina, a fire in the Phi Gamma Delta Fraternity House killed 5 college juniors and injured 3. The 3-story plus basement fraternity house was 70 years old. The National Fire Protection Association identified several factors that contributed to the tragic fire, including the lack of fire sprinkler protection.

(3) It is estimated that between 1980 and 1998, an average of 1,800 fires at dormitories, fraternities, and sororities, involving 1 death, 70 injuries, and \$8,000,000 in property damage were reported to public fire departments.

(4) Within dormitories, fraternities, and sororities the number 1 cause of fires is arson or suspected arson. The second leading cause of college building fires is cooking, while the third leading cause is smoking.

(5) The National Fire Protection Association has no record of a fire killing more than 2 people in a completely fire sprinklered public assembly, educational, institutional, or residential building where the sprinkler system was operating properly.

(6) New dormitories are generally required to have advanced safety systems such as fire sprinklers. But such requirements are rarely imposed retroactively on existing buildings.

(7) In 1998, 93 percent of the campus building fires reported to fire departments occurred in buildings where there were smoke alarms present. However, only 34 percent had fire sprinklers present.

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this Act \$100,000,000 for each of the fiscal years 2002 through 2006.

**SEC. 4. GRANTS AUTHORIZED.**

(a) PROGRAM AUTHORITY.—The Secretary of Education, in consultation with the United States Fire Administration, is authorized to award grants to States, private or public colleges or universities, fraternities, and sororities to assist them in providing fire sprinkler systems, or other fire suppression or prevention technologies, for their student housing and dormitories.

(b) MATCHING FUNDS REQUIREMENT.—The Secretary of Education may not award a grant under this section unless the entity receiving the grant provides, from State, local, or private sources, matching funds in an amount equal to not less than one-half of the cost of the activities for which assistance is sought.

**SEC. 5. PROGRAM REQUIREMENTS.**

(a) APPLICATION.—Each entity desiring a grant under this Act shall submit to the Secretary of Education an application at such time and in such manner as the Secretary may require.

(b) PRIORITY.—In awarding grants under this Act, the Secretary shall give priority to applicants that demonstrate in the application submitted under subsection (a) the in-

ability to fund the sprinkler system, or other fire suppression or prevention technology, from sources other than funds provided under this Act.

(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—An entity that receives a grant under this Act shall not use more than 4 percent of the grant funds for administrative expenses.

**SEC. 6. DATA AND REPORT.**

The Comptroller General shall—

(1) gather data on the number of college and university housing facilities and dormitories that have and do not have fire sprinkler systems and other fire suppression or prevention technologies; and

(2) report such data to Congress.

**SEC. 7. ADMISSIBILITY.**

Notwithstanding any other provision of law, any application for assistance under this Act, any negative determination on the part of the Secretary of Education with respect to such application, or any statement of reasons for the determination, shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

By Mr. BAUCUS (for himself, Mr. ROBERTS, Mrs. LINCOLN, and Mr. DORGAN):

S. 400. A bill to lift the trade embargo on Cuba, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. ROBERTS, and Mrs. LINCOLN):

S. 401. A bill to normalize trade relations with Cuba, and for other purposes; to the Committee on Finance.

S. 402. A bill to make an exception to the United States embargo on trade with Cuba for the export of agricultural commodities, medicines, medical supplies, medical instruments, or medical equipment and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am introducing today a series of bills that would end the embargo on trade with Cuba and normalize our economic relations with this country that is a mere ninety miles off our shore. I should add that Congressman CHARLES RANGEL is offering a set of companion bills in the House today.

Last July, I led a small group of Senators to Havana. During our brief visit, we met with Fidel Castro. But we also spent three hours with a group of six dissidents who had spent years in prison, yet have chosen heroically to continue their dissent from within Cuba. We met with the leader of Cuba’s largest independent NGO. It was clear to me that our Cuba policy was outdated and needed fundamental change.

I have long fought against unilateral economic sanctions, unless our national security was at stake. The Cuba embargo is a unilateral sanction, but our national security is not at stake. The Defense Department has concluded that Cuba does not represent any security threat to this nation. None of our closest allies supports the embargo. Nor do any of our trading partners in the Americas.

Unilateral sanctions do not work. The embargo has not changed the behavior of the Cuban government and its leadership. It has not changed the

behavior of Fidel Castro. But the embargo has hurt the people of Cuba. And the embargo has hurt American farmers and businesses, as our Asian, European, and Canadian competitors have rushed in to fill the gap in the Cuban market.

The U.S. International Trade Commission released a report on the economic impact of U.S. sanctions on Cuba. The ITC found that the embargo costs US exporters, farmers, manufacturers, and service providers between \$650 million and one billion dollars a year in lost sales. This is intolerable.

We should lift the embargo. We should engage Cuba economically. We should engage the people of Cuba.

The bills I am introducing today do just that. The first bill, on which I am joined by Senators ROBERTS, LINCOLN, and DORGAN, is the “Free Trade with Cuba Act”, that would lift the embargo completely. The second bill, on which I am joined by Senators ROBERTS and LINCOLN, is the “United States-Cuba Trade Act of 2001”, that would remove Cuba from Jackson-Vanik treatment and provide normal trade relations status on a permanent basis. The third bill, on which I am also joined by Senators ROBERTS and LINCOLN, is the “Cuban Humanitarian Trade Act of 2001”, that removes the restrictions on food and medicine exports imposed in the last Congress, repeals the codification of travel restrictions, and removes limitations on remittances to individual Cuban citizens.

I am not suggesting that we embrace Fidel Castro. Far from it! His leadership, his treatment of his own people, his failed economic, political, and social policies—these are unacceptable to all Americans. But the world has changed since the United States initiated the embargo forty years and ten Presidents ago. It does us no good to wait until Castro is gone from the scene before we begin to develop normal relations with the Cuban people and with Cuba’s future leaders. If we fail to develop those relationships now, the inevitable transition to democracy and a market economy will be much harder on all of the Cuban people. And events in Cuba could easily escalate out of control and put the United States in the middle of a dangerous domestic crisis on the island.

Jim Hoagland, in a recent Washington Post column, wrote about his concern “when sanctions linger too long and become a political football and a substitute for policy, as is the case today in Cuba.” This accurately describes where we are today.

To help further edify my colleagues on this issue, I would like to enter into the record a column from the February 9 Wall Street Journal by Philip Peters, Vice President of the Lexington Institute, who explains how changes in U.S. policy can help the Cuban people who continue to suffer under Castro’s policies of political and economic repression.

The three bills that I am offering today serve our national interest, will

help us move toward a peaceful transition in the post-Castro era, and will help the Cuban people now. I urge support from all my colleagues.

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

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

[From the Wall Street Journal, February 9, 2001]

“LET YANKEE TOURISTS SHOWER DOLLARS ON CUBA’S POOR”

(By Philip Peters)

In her final press conference as Secretary of State, Madeleine Albright’s message to the Cuban people was succinct. In reference to the aging Fidel Castro she said, “I wish them the actuarial tables.” It was an odd statement on behalf of a superpower that could have used the previous eight years to exercise considerable influence on its small island neighbor.

It was also a fitting end to the Clinton administration’s passive approach to Cuba policy, where the impulse to reassess strategy was nearly always trumped by the imperative of avoiding political risk in Florida. Even in 1998, when Republican leaders such as Sen. John Warner and former Secretary of State George Shultz urged the creation of a presidential bipartisan commission—a golden opportunity to conduct a long overdue post-Cold War review that could have included the full range of Cuban-American voices—politics held the Clinton White House back.

President Bush has an opportunity to make a fresh start. Today’s strict embargo policy, based on the goal of denying hard currency to the Cuban government, made sense during the Cold War when Cuba was a genuine security threat and Washington had reason to make Cuba an expensive satellite for the Soviet Union to maintain.

Today, with sanctions twice tightened during the 1990s, Fidel Castro remains firmly in power. With the Soviet-era security threat gone, it is time to recognize that isolating Cuba from commerce and contact with Americans is counterproductive because it reduces American influence in Cuba. President Bush’s Cuba policy is not yet defined, but Secretary of State Colin Powell has said that “We will only participate in those activities with Cuba that benefit the people directly and not the government.”

This standard sounds good in theory, but in practice it is impossible to achieve. Virtually every form of economic activity with Cuba benefits both the people and the government. Today, European and Canadian trade, investment and tourism benefit Cuban state enterprises. But they also increase the earnings of Cuban workers, expose Cubans to foreigners and non-socialist ideas, bring capitalist business practices, and reshape the Cuban economy to fit its comparative advantages in the global system. This adds up to humanitarian benefits for the Cuban people, and a head start on a future transition to a more market-oriented economy.

U.S. economic activity also benefits both the state and the people of Cuba. Family remittances, estimated by the United Nations at over \$700 million annually, bring more foreign exchange than sugar exports. Many of these dollars land in the Cuban treasury when Cubans spend them in state retail stores. U.S.-Cuba phone connections allow families to communicate, but generate over \$70 million a year for the state phone company. A strict application of Secretary Powell’s own standard would cut off these valuable benefits.

The trick, then, for an administration that seems to want to end unilateral trade sanctions everywhere but Cuba, will not be to reach for Secretary Powell’s unattainable standard. Rather, it will be to choose among forms of engagement that serve America’s humanitarian interest in helping Cubans to prosper, our long-term economic interest of nudging Cuba toward a market economy, and our political interest in exposing Cubans to Americans and American ideas.

President Bush could begin by supporting the congressional consensus, expressed last year by greater than three-to-one majorities in the House and Senate, to lift all restrictions on food and medicine sales. This step would begin to reverse the implicit assumption in U.S. policy that American interests are somehow served if products such as rice, powdered milk, and drugs are more scarce or expensive for Cubans to acquire. It would also support the calls by Cuban dissidents such as Elizardo Sanchez and the Christian Liberation Movement for an end to this part of the embargo. It “hurts the people, not the regime,” Mr. Sanchez says, and is “an odd way of demonstrating support for human rights.”

President Bush could then end all restrictions on Cuban-American remittances, now limited to \$1,200 a year, and on family visits, which are permitted only in cases of “humanitarian emergency” a cruel regulation that forces families to lie by the thousands each December when they visit relatives at Christmas.

Finally, the president could support an end to the travel ban imposed on Americans—a mistaken policy that treats free contact between American and Cuban societies as a detriment rather than an opportunity. “If we have a million Americans walking on the streets of Havana, you will have something like the pope’s visit multiplied by 10,” independent journalist Manuel David Orrio told the Chicago Tribune in 1999. A Havana clergyman told me last month that visiting Americans “would permeate this place with the idea of a free society.”

Like other international travelers, Americans’ spending would boost Cubans’ earnings in hotels and restaurants and expand Cuba’s incipient private sector. An influx of U.S. travelers would immediately create a shortage of lodging that would be filled partially by Cubans who legally rent rooms in their homes. Demand for the services of artisans, taxis and private restaurants would also increase, adding to the disposable income that sustains other entrepreneurs, from carpenters and repairmen to food vendors and tutors.

As this sector, now 150,000 strong, gains income and expands, demand would increase for the freely priced, privately sold produce in Cuba’s 300 farmers markets, benefitting farmers across Cuba who have no contact with tourists. Americans would experience “the interface between the entrepreneurial folks” that President Bush lauds as a virtue of open trade with communist China, to say nothing of the value of their personal contact with Cubans. This may be why a Florida International University poll shows a slim majority of Cuban-Americans, and three-fourths of the most recent Cuban immigrants, supporting an end to the travel ban.

A policy opening of this type would leave the trade embargo largely intact for future review, and it would do nothing to diminish America’s stark opposition to Cuban human rights practices. However, it would increase concrete support to the Cuban people, and it would spur the development of free-market activity in the post-Castro Cuba that is now taking shape.

By Mr. COCHRAN:

S. 403. A bill to improve the National Writing Project; to the Committee on Health, Education, Labor, and Pensions.

Mr. COCHRAN. Mr. President, today, I am introducing legislation reauthorizing the National Writing Project, the only Federal program to improve the teaching of writing in America’s classrooms.

Literacy is at the foundation of school and workplace success, of citizenship in a democracy, and of learning in all disciplines. The National Writing Project has been instrumental in helping teachers develop better teaching skills so they can help our children improve their ability to read, write, and think.

The National Writing Project is a twenty-seven-year old national network of university-based teacher training programs designed to improve the teaching of writing and student achievement in writing and has had federal support since 1991. Successful writing teachers attend Invitational Summer Institutes at their local universities. During the school year these teachers provide workshops for other teachers in the schools. At 167 sites in 49 states, the National Writing Project trains over 100,000 teachers every year.

The program has become a national model for other disciplines and is now recognized by the Department of Education as an important part of national education policy. The program also generates an average of \$6.32 in private, state, and local funds for every federal dollar appropriated. The National Writing Project is making teachers better at their jobs.

I introduced the National Writing Project Act for the first time in 1990. Since then, I have worked with other Senators to ensure that it has remained a program that supports states and local schools in their efforts to have better teachers. Last Congress when I introduced this bill, it was co-sponsored by 52 Senators. I hope it will receive even greater support in the 107th Congress. I invite other Senators to join me in sponsoring this legislation.

By Mr. McCAIN:

S. 404. A bill to provide for the technical integrity of the FM radio band, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, I rise today to introduce a bill that will allow our communities and churches to benefit from low-power radio service.

Mr. President, low-power FM radio service provides community based organizations, churches, and other non-profit groups with a new, affordable opportunity to reach out to the public, helping to promote a greater awareness of local issues important to our communities. As such, low-power FM is supported by many national and local organizations who seek to provide the public with increased sources of news

and perspectives in an otherwise increasingly consolidated medium.

Last Congress, special interests forces opposed to low-power FM radio, most notably the National Association of Broadcasters and National Public Radio, mounted a vigorous behind-the-scenes campaign to kill low-power FM radio. And unfortunately, these special interests succeeded in attaching an appropriations rider in the dead of the night—without a single debate on the floor of the Senate—that effectively did just that.

Mr. President, the Low Power Radio Act of 2001 seeks to remedy this derailment of the democratic process. The Low Power Radio Act of 2001 will allow the FCC to license low-power FM radio service, while at the same time protecting existing full-power stations from interference. Specifically, the legislation directs the FCC—the expert agency with the experience and engineering resources to make such a determination—to determine which, if any, low-power radio stations are causing interference to existing full-power stations, and determine what the low-power FM station must do to alleviate it. Thus, this legislation strikes a fair balance by allowing non-interfering low-power FM stations to operate without further delay, while affecting only those low-power stations that the FCC finds to be causing harmful interference in their actual, everyday operations. This is totally consistent with the fact that low-power FM is a secondary service which, by law, must cure any interference caused to any primary, full-power service.

This legislation will provide an efficient and effective means to detect and resolve harmful interference. By providing a procedural remedy that authorizes the FCC to impose damages on frivolous complaints, the bill will discourage the creation of low-power stations most likely to cause harmful interference while at the same time discouraging full-power broadcasters from making unwarranted interference claims.

In the interests of would-be new broadcasters, existing broadcasters, but, most of all, the listening public, I urge the enactment of the Low Power Radio Act of 2001.

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

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

S. 404

*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 “Low Power Radio Act of 2001”.

**SEC. 2. PURPOSE.**

It is the purpose of this Act to ensure the technical integrity of the FM radio band, while permitting the introduction of low-power FM transmitters into such band without causing harmful interference.

**SEC. 3. HARMFUL INTERFERENCE PROHIBITED.**

(a) IN GENERAL.—Any low-power FM radio licensee determined by the Federal Communications Commission to be transmitting a signal causing harmful interference to one or more licensed radio services shall, if so ordered by the Commission, cease the transmission of the interfering signal, and may not commence transmitting such signal until it has taken whatever action the Commission may prescribe in order to assure that the radio licensee that has sustained the interference remains able to serve the public interest, convenience and necessity as required by the Commission's rules.

(b) COMPLAINT.—Any radio service licensee or subcarrier program provider may file a complaint with the Commission against any low-power FM radio licensee for transmitting a signal that is alleged to cause harmful interference. The complaint shall be filed in a form, and contain such information as, prescribed by the Commission.

(c) EXPEDITED CONSIDERATION.—In any complaint filed pursuant to the provisions of subsection (b), the Commission shall render a final decision no later than 90 calendar days after the date on which the complaint was received by the Commission.

(d) PUNITIVE DAMAGES.—In any final decision rendered pursuant to this section, the Commission is authorized to impose punitive damages not to exceed 5 times the low-power FM station's costs if the Commission finds that the complaint was frivolous and without any merit or purpose other than to impede the provision of non-interfering low-power FM service.

(e) SECTION 316(a)(3) OF COMMUNICATIONS ACT.—Section 316(a)(3) of the Communications Act of 1934 (47 U.S.C. 316(a)(3)) shall not apply to a complaint filed pursuant to this section.

(f) RULES.—The Commission shall adopt rules implementing the provisions of this section within 45 days after the date of enactment of this Act.

(g) HARMFUL INTERFERENCE DEFINED.—For purposes of this section, the term “harmful interference” means interference which endangers the functioning of a radio navigation service or of other safety services or that seriously degrades, obstructs, or repeatedly interrupts a radio service operating in accordance with the rules and regulations of the Federal Communications Commission.

(h) REPEAL OF CERTAIN PROVISIONS.—

(1) RESTORATION OF COMMUNICATIONS ACT.—Section 336 of the Communications Act of 1934 (47 U.S.C. 336) is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(2) NULLIFICATION OF ACTION UNDER REPEALED PROVISION.—Any action taken by the Federal Communications Commission under section 336(h) of the Communications Act of 1934 (47 U.S.C. 336(h)) as added by section 143(a) of Division B of A Bill Making miscellaneous appropriations for the fiscal year ending September 30, 2001, and for other purposes (106 Pub. L. 554; Appendix-H.R. 5666) before the date of enactment of this Act is null and void.

(3) REPEAL.—The Act entitled A Bill Making miscellaneous appropriations for the fiscal year ending September 30, 2001, and for other purposes (106 Pub. L. 554; Appendix-H.R. 5666) is amended by striking section 143.

**SEC. 4. DIGITAL RADIO TRANSITION.**

The Federal Communications Commission shall complete all rulemakings necessary to implement the transition to digital radio no later than February 23, 2002.

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

S. 407. A bill to amend the Trademark Act of 1946 to provide for the reg-

istration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce implementing legislation for the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, Protocol. I have introduced identical bills in the last two Congresses, but the Senate unfortunately did not consider those bills. Chairman Hatch has joined me in introducing this legislation, and I thank him for his leadership on this and other intellectual property matters of such critical importance to the economy and industry.

This bill is part of my ongoing effort to update American intellectual property law to ensure that it serves to advance and protect American interests both here and abroad. The Protocol would help American businesses, and especially small and medium-sized companies, protect their trademarks as they expand into international markets. Specifically, this legislation will conform American trademark application procedures to the terms of the Protocol in anticipation of the U.S.'s eventual ratification of the treaty. Ratification by the United States of this treaty would help create a “one stop” international trademark registration process, which would be an enormous benefit for American businesses. This bill is one of many measures I have introduced and supported over the past few years to ensure that American trademark holders receive strong protection in today's world of changing technology and complex international markets.

Over the past few years, Senator HATCH and I have worked together successfully on a number of initiatives to bolster trademark protection and keep our trademark laws up-to-date. For example, in the 104th Congress, we supported the Federal Trademark Dilution Act of 1995, enacted to provide intellectual property rights holders with the power to enjoin another person's commercial use of famous marks that would cause dilution of the mark's distinctive quality. In the 105th Congress, we introduced legislation, S. 2193, to implement the Trademark Law Treaty. S. 2193 simplified trademark registration requirements around the world by establishing a list of maximum requirements which Treaty member countries can impose on trademark applicants. The bill passed the Senate on September 17, 1998, and was signed by the President on October 30, 1998. I am proud of this legislation since all American businesses, and particularly small American businesses, will benefit as a result.

Also, in the 105th Congress, I introduced S. 1727 to authorize a comprehensive study of the effects of adding new generic Top Level Domains on trademark and other intellectual property rights. This bill became law as part of

the Next Generation Internet Research Act, S. 1609, which was signed into law on October 28, 1998.

In the 106th Congress, Senator HATCH and I worked together for enactment of the Anticybersquatting Consumer Protection Act, which protects against the registration, in bad faith with intent to profit, as a domain name of another person's trademark or the name of a living person. This bill was passed as part of the FY 2000 Omnibus Appropriations bill on November 29, 1999.

Also in the 106th Congress, we worked to pass the Trademark Amendments Act, which enhanced protection for trademark owners and consumers by making it possible to prevent trademark dilution before it occurs, by clarifying the remedies available under the Federal trademark dilution statute, by providing recourse against the Federal Government for its infringement of others' trademarks, and by creating greater certainty and uniformity in the area of trade dress protection. The bill passed the Senate on July 1, 1999, and was enacted on August 5, 1999.

Together, these measures represent significant steps in our efforts to ensure that American trademark law adequately serves and promote American interests.

The legislation I introduce today with Senator HATCH would ease the trademark registration burden on small and medium-sized businesses by enabling them to obtain trademark protection in all signatory countries with a single trademark application filed with the Patent and Trademark Office. Currently, in order for American companies to protect their trademarks abroad, they must register their trademarks in each and every country in which protection is sought. Registering in multiple countries is a time-consuming, complicated and expensive process—a process which places a disproportionate burden on smaller American companies seeking international trademark protection.

I first introduced the Madrid Protocol Implementation Act in the 105th Congress as S. 2191, then again in the 106th Congress as S. 671. The Judiciary Committee reported S. 671 favorably and unanimously, on February 10, 2000. In the House of Representatives, Congressmen Coble and Berman sponsored and passed an identical bill, H.R. 769, on April 13, 1999.

Since 1891, the Madrid Agreement Concerning the International Registration of Marks, Agreement has provided an international trademark registration system. However, prior to adoption of the Protocol, the U.S. declined to join the Agreement because it contained terms deemed inimical to American intellectual property interests. In 1989, the terms of the Agreement were modified by the Protocol, which corrected the objectionable terms of the Agreement and made American participation a possibility. For example, under the Protocol, applications for

international trademark extension can be completed in English; formerly, applications were required to be completed in French.

Another stumbling block to the United States joining the Protocol was resolved last year. Specifically, the European Community, EC, had taken the position that under the Protocol, the EC, as an intergovernmental member of the Protocol, received a separate vote in the Assembly established by the agreement in addition to the votes of its member states. The State Department opposed this position as a contravention of the democratic concept of one-vote-per-country.

On February 2, 2000, the Assembly of the Madrid Protocol expressed its intent "to use their voting rights in such a way as to ensure that the number of votes cast by the European Community and its member States does not exceed the number of the European Community's Member States." In short, this letter appeared to resolve differences between the Administration and the European Community, EC, regarding the voting rights of intergovernmental members of the Protocol in the Assembly established by the agreement.

Shortly after this letter was forwarded by the Assembly, I wrote to then Secretary of State Madeleine Albright requesting information on the Administration's position in light of the resolution of the voting dispute. At a hearing of the Foreign Operations Subcommittee on April 14, 2000, I further inquired of Secretary Albright about the progress the Administration was making on this matter, particularly in light of the fact that differences over the voting rights of the European Union and participation of intergovernmental organizations in this intellectual property treaty were resolved in accordance with the U.S. position.

Subsequently, President Clinton transmitted Treaty Document 106-41, the Protocol Relating to the Madrid Agreement to the Senate for ratification on September 5, 2000. Shortly after transmittal, on September 13, 2000, the Foreign Relations Committee held a hearing to consider Protocol. Unfortunately, no further action was taken on the Protocol or the implementing legislation before the Congress adjourned.

United States membership in the Protocol would greatly enhance the ability of any U.S. business, whether large or small, to protect its trademarks in other countries more quickly, cheaply and easily. That, in turn, will make it easier for American businesses to enter foreign markets and to protect their trademarks in those markets. The Protocol would not require substantive changes to American trademark law, but merely to certain procedures for registering trademarks. Passage of this implementing legislation will help to ensure timely accession to and implementation of the Madrid Protocol, and it will send a clear signal to the international community, U.S.

businesses, and trademark owners that Congress is serious about our Nation becoming part of a low-cost, efficient system to promote the international registration of marks. I look forward to working with Senator HATCH and my other colleagues for ratification of the Protocol and passage of the implementing legislation.

I ask unanimous consent that a copy of the bill and the sectional analysis be placed in the RECORD after my statement, as well as any additional statements regarding this bill.

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

S. 407

*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 "Madrid Protocol Implementation Act".

**SEC. 2. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.**

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946") is amended by adding after section 51 the following new title:

**"TITLE XII—THE MADRID PROTOCOL**

**SEC. 60. DEFINITIONS.**

"For purposes of this title:

"(1) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

"(2) BASIC APPLICATION.—The term 'basic application' means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(3) BASIC REGISTRATION.—The term 'basic registration' means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(4) CONTRACTING PARTY.—The term 'Contracting Party' means any country or intergovernmental organization that is a party to the Madrid Protocol.

"(5) DATE OF RECORDAL.—The term 'date of recordal' means the date on which a request for extension of protection that is filed after an international registration is granted is recorded on the International Register.

"(6) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term 'declaration of bona fide intention to use the mark in commerce' means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

"(A) the applicant or holder has a bona fide intention to use the mark in commerce;

"(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce; and

“(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, or to cause mistake, or to deceive.

“(7) EXTENSION OF PROTECTION.—The term ‘extension of protection’ means the protection resulting from an international registration that extends to a Contracting Party at the request of the holder of the international registration, in accordance with the Madrid Protocol.

“(8) HOLDER OF AN INTERNATIONAL REGISTRATION.—A ‘holder’ of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

“(9) INTERNATIONAL APPLICATION.—The term ‘international application’ means an application for international registration that is filed under the Madrid Protocol.

“(10) INTERNATIONAL BUREAU.—The term ‘International Bureau’ means the International Bureau of the World Intellectual Property Organization.

“(11) INTERNATIONAL REGISTER.—The term ‘International Register’ means the official collection of such data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded, regardless of the medium which contains such data.

“(12) INTERNATIONAL REGISTRATION.—The term ‘international registration’ means the registration of a mark granted under the Madrid Protocol.

“(13) INTERNATIONAL REGISTRATION DATE.—The term ‘international registration date’ means the date assigned to the international registration by the International Bureau.

“(14) NOTIFICATION OF REFUSAL.—The term ‘notification of refusal’ means the notice sent by an Office of a Contracting Party to the International Bureau declaring that an extension of protection cannot be granted.

“(15) OFFICE OF A CONTRACTING PARTY.—The term ‘Office of a Contracting Party’ means—

“(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks; or

“(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

“(16) OFFICE OF ORIGIN.—The term ‘office of origin’ means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

“(17) OPPOSITION PERIOD.—The term ‘opposition period’ means the time allowed for filing an opposition in the Patent and Trademark Office, including any extension of time granted under section 13.

#### “SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS.

“The owner of a basic application pending before the Patent and Trademark Office, or the owner of a basic registration granted by the Patent and Trademark Office, who—

“(1) is a national of the United States;

“(2) is domiciled in the United States; or

“(3) has a real and effective industrial or commercial establishment in the United States,

may file an international application by submitting to the Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Director.

#### “SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION.

“Upon the filing of an application for international registration and payment of the prescribed fees, the Director shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification. Upon examination and certification of the international application, the Director shall transmit the international application to the International Bureau.

#### “SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION.

“With respect to an international application transmitted to the International Bureau under section 62, the Director shall notify the International Bureau whenever the basic application or basic registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of the goods and services listed in the international registration—

“(1) within 5 years after the international registration date; or

“(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

#### “SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

“The holder of an international registration that is based upon a basic application filed with the Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

“(1) directly with the International Bureau; or

“(2) with the Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Director.

#### “SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

“(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

“(b) IF UNITED STATES IS OFFICE OF ORIGIN.—An extension of protection resulting from an international registration of a mark shall not apply to the United States if the Patent and Trademark Office is the office of origin with respect to that mark.

#### “SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

“(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

“(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section

68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

“(1) The international registration date, if the request for extension of protection was filed in the international application.

“(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

“(3) The date of priority claimed pursuant to section 67.

#### “SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES.

“The holder of an international registration with an extension of protection to the United States shall be entitled to claim a date of priority based on the right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

“(1) the international registration contained a claim of such priority; and

“(2)(A) the international application contained a request for extension of protection to the United States; or

“(B) the date of recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention).

#### “SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL.

“(a) EXAMINATION AND OPPOSITION.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Director shall cause the mark to be published in the Official Gazette of the Patent and Trademark Office.

“(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13. Unless successfully opposed, the request for extension of protection shall not be refused.

“(3) Extension of protection shall not be refused under this section on the ground that the mark has not been used in commerce.

“(4) Extension of protection shall be refused under this section to any mark not registrable on the Principal Register.

“(b) NOTIFICATION OF REFUSAL.—If, a request for extension of protection is refused under subsection (a), the Director shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

“(c) NOTICE TO INTERNATIONAL BUREAU.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Director shall transmit to the International Bureau any of the following that applies to such request:

“(A) A notification of refusal based on an examination of the request for extension of protection.

“(B) A notification of refusal based on the filing of an opposition to the request.

“(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

“(2) If the Director has sent a notification of the possibility of opposition under paragraph (1)(C), the Director shall, if applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

“(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Director after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

“(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Director shall issue a certificate of extension of protection pursuant to the request.

“(d) DESIGNATION OF AGENT FOR SERVICE OF PROCESS.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark shall designate, by a written document filed in the Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Director.

#### SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

“(a) ISSUANCE OF EXTENSION OF PROTECTION.—Unless a request for extension of protection is refused under section 68, the Director shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the Patent and Trademark Office.

“(b) EFFECT OF EXTENSION OF PROTECTION.—From the date on which a certificate of extension of protection is issued under subsection (a)—

“(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register; and

“(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

#### SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

“(a) EFFECT OF CANCELLATION OF INTERNATIONAL REGISTRATION.—If the International Bureau notifies the Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Director shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

“(b) EFFECT OF FAILURE TO RENEW INTERNATIONAL REGISTRATION.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

“(c) TRANSFORMATION OF AN EXTENSION OF PROTECTION INTO A UNITED STATES APPLICATION.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under Article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

#### SEC. 71. AFFIDAVITS AND FEES.

“(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Director—

“(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Director, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; and

“(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Director, and at the end of each 10-year period thereafter, unless—

“(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; or

“(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and an additional fee prescribed by the Director.

“(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

#### SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

“An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial estab-

lishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

#### SEC. 73. INCONTESTABILITY.

“The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Director issues the certificate of the extension of protection under section 69, except as provided in section 74.

#### SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

“An extension of protection shall convey the same rights as an existing registration for the same mark, if—

“(1) the extension of protection and the existing registration are owned by the same person;

“(2) the goods and services listed in the existing registration are also listed in the extension of protection; and

“(3) the certificate of extension of protection is issued after the date of the existing registration.”

#### SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date on which the Madrid Protocol (as defined in section 60(1) of the Trademark Act of 1946) enters into force with respect to the United States.

#### MADRID PROTOCOL IMPLEMENTATION ACT—

##### SECTION-BY-SECTION ANALYSIS

###### SECTION 1. SHORT TITLE

This section provides a short title: the “Madrid Protocol Implementation Act.”

###### SECTION 2. AMENDMENTS TO THE TRADEMARK ACT OF 1946

This section amends the “Trademark Act of 1946” by adding a new Title XII with the following provisions:

The owner of a registration granted by the Patent and Trademark Office (PTO) or the owner of a pending application before the PTO may file an international application for trademark protection at the PTO.

After receipt of the appropriate fee and inspection of the application, the PTO Director is charged with the duty of transmitting the application to the WIPO International Bureau.

The Director is also obliged to notify the International Bureau whenever the international application has been “... restricted, abandoned, canceled, or has expired ...” within a specified time period.

The holder of an international registration may request an extension of its registration by filing with the PTO or the International Bureau.

The holder of an international registration is entitled to the benefits of extension in the United States to the extent necessary to give effect to any provision of the Protocol; however, an extension of an international registration shall not apply to the United States if the PTO is the office of origin with respect to that mark.

The holder of an international registration with an extension of protection in the United States may claim a date of priority based on certain conditions.

If the PTO Director believes that an applicant is entitled to an extension of protection, he or she publishes the mark in the “Official Gazette” of the PTO. This serves notice to third parties who oppose the extension. Unless an official protest conducted pursuant to existing law is successful, the request for extension may not be refused. If the request for extension is denied, however, the Director notifies the International Bureau of such action and sets forth the reason(s) why. The Director must also apprise

the International Bureau of other relevant information pertaining to requests for extension within the designated time periods.

If an extension for protection is granted, the Director issues a certificate attesting to such action, and publishes notice of the certificate in the "Gazette." Holders of extension certificates thereafter enjoy protection equal to that of other owners of registration listed on the Principal Register of the PTO.

If the International Bureau notifies the PTO of a cancellation of some or all of the goods and services listed in the international registration, the Director must cancel an extension of protection with respect to the same goods and services as of the date on which the international registration was canceled. Similarly, if the International Bureau does not renew an international registration, the corresponding extension of protection in the United States shall cease to be valid. Finally, the holder of an international registration canceled in whole or in part by the International Bureau may file an application for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration.

The holder of an extension of protection must, within designated time periods and under certain conditions, file an affidavit setting forth the relevant goods or services covered and any explanation as to why their nonuse in commerce is related to "special circumstances," along with a filing fee.

The right to an extension of protection may be assigned to a third party so long as the individual is a national of, or is domiciled in, or has a "bona fide" business located in a country that is a member of the Protocol; or has such a business in a country that is a member of an intergovernmental organization (like the E.U.) belonging to the Protocol.

An extension of protection conveys the same rights as an existing registration for the same mark if the extension and existing registration are owned by the same person, and extension of protection and the existing registration cover the same goods or services, and the certificate of extension is issued after the date of the existing registration.

#### SECTION 3. EFFECTIVE DATE

This section states that the effective date of the act shall commence on the date on which the Madrid Protocol takes effect in the United States.

Mr. HATCH. Mr. President, today I am pleased to introduce with my distinguished colleague, Senator LEAHY, legislation that will, for the first time, enable American businesses to obtain international trademark protection with the filing of a single application and the payment of a single fee.

For many businesses, a company's trademark is its most valuable asset. This is illustrated now as never before in the growth of the new Internet economy, where so-called "branding" is the name of the game and the cornerstone of any business plan. Whether a business is an e-business or a more traditional Main Street storefront, United States trademark law has proven to be a powerful tool for these businesses in protecting their marks against domestic misappropriation. However, as global trading increases and multinational businesses grow, worldwide trademark protection is becoming extremely im-

portant and desirable. Unfortunately, achieving similar protection on an international scale has always been a much more difficult task. This difficulty stems in large part from the diversity among national trademark laws, as well as the sometimes prohibitive costs of filing individual registrations and seeking foreign representation in each and every country for which trademark protection is sought. As a result, American businesses, and small businesses in particular, are often forced to pick only a handful of countries in which to seek protection for their brand names and hope for the best in the rest of the world.

In the past, Senator LEAHY and I have sponsored a number of bills addressing the international protection of intellectual property. In the trademark arena, we strongly supported legislation implementing the Trademark Law Treaty. That treaty serves to streamline the trademark registration process in member countries around the world and to minimize the hurdles faced by American trademark owners in securing international protection of their marks. The legislation we introduce today will build upon those improvements by allowing trademark owners to seek international protection with a single application filed in the English language with the United States Patent and Trademark Office, USPTO, and with the payment of a single fee. Most important, it paves the way for the USPTO to act as a one-stop shop for international trademark protection without making substantive changes to United States trademark law. Foreign trademark owners must still meet all of the substantive requirements of United States trademark law in order to gain protection in the United States based on an international application filed under the Madrid Protocol. In short, it is a win-win situation for American trademark owners.

As my colleagues here know, United States adherence to the Madrid Protocol was stalled for years over administrative provisions—unrelated to the substance of the Protocol itself—relating to voting rights. Since 1994, the Administration voiced objections to these provisions, which would allow an intergovernmental organization, e.g., the European Union, a vote in certain treaty matters taken before the Assembly, separate and apart from the votes of its member states. Although matters before the Assembly would largely be limited to administrative matters, e.g., those involving formalities and fee changes, the concern expressed has been that these provisions, which appear to violate the democratic principle of one vote for each state, would create an undesirable precedent in future international agreements.

While this stumbling block to United States accession to the Protocol has been the subject of much negotiation between the United States and the European Union, I am pleased that a suc-

cessful resolution on this issue of voting rights has been reached, and I was pleased that the Senate finally received the Administration's request for its advice and consent last year. By passing The Madrid Protocol Implementation Act, we will take an important step in making sure that American trademark owners will be able to take full advantage of the benefits of the Protocol as soon as it comes into force with respect to the United States. This is a particularly important measure for American competitiveness, and for the individual businesses in each of our states. I want to thank Senator LEAHY for his leadership with respect to this legislation, and I look forward to my colleagues' support for it.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 408. A bill to provide emergency relief to small businesses affected by significant increases in the price of electricity; to the Committee on Small Business.

Mrs. BOXER. Mr. President, today, I am introducing the Small Business Electricity Emergency Relief Act. As the electricity crisis in California continues, small businesses are being hit hard by the increase in electricity prices.

Across California, small business owners are opening their electricity bills only to be in a state of shock. In some cases they find that their bills have doubled, and sometimes even tripled. This has resulted in many small businesses having to close their doors and many more facing severe economic hardship.

Under the Small Business Electricity Emergency Relief Act of 2001, the Small Business Administration could make loans to small businesses that have suffered economic injury due to a "sharp and significant increase" in their electricity bills.

This legislation will provide California's small businesses with some much needed financial relief. This will greatly assist small businesses in the San Diego region that suffered dramatic increases in their electricity bills last summer.

Small businesses represent the heart of our great state's thriving economy. This legislation will ensure that these small businesses are provided assistance to help keep their lights on.

#### STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 28—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN STATE OF IDAHO V. FREDRICK LEROY LEAS, SR.

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to.

S. RES. 28

Whereas, in the case of State of Idaho v. Fredrick Leroy Leas, Sr., C. No. CR-00-01326,