the Tropical Forest Conservation Act of 1998 through fiscal year 2004.

S. 1037

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1037, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

S. 1058

At the request of Mr. CARPER, his name was added as a cosponsor of S. 1058, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY.

S. 1076. A bill to provide for the review of agriculture mergers and acquisitions by the Department of Agriculture and to outlaw unfair practices in the agriculture industry, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, as most of my colleagues know, agriculture is a crucial industry for Iowa. The small, independent family farmer is an important thread which holds together my State's cultural, economic and social fabric. In fact, the family farmer is one of the best things about Iowa's heritage. My colleagues are well aware that I'm committed to preserving and supporting this valuable member of Iowa's communities.

Agriculture is a risky business. I know that from personal experience, I've lived and worked on a farm all my life. But these days, farmers feel especially vulnerable. ''Merger-mania'' has been running rampant, with large companies joining forces to create new business giants in every sector of the economy, including agriculture.

The agriculture sector has witnessed a number of mega-mergers and alliances affecting grain and livestock. And the independent producer is seeing fewer choices of who to buy from and who to sell to. More and more family farmers and independent producers are feeling the pressure and impact of concentration in agriculture. Good men and women who have farmed for years and years are going out of business. Yet, the independent farmer is one of the most efficient businessman in our Nation's economy. That's why the United States can feed itself and a good portion of the world.

I've said before that I am not of the belief that all mergers are in and of themselves wrong or unfair to family farmers. But we need to make sure that open and fair access to the marketplace is preserved for everyone. We need to make sure that large businesses are not acting in a predatory or anti-competitive manner. We need to make sure that family farmers and independent producers can compete on a level playing field. That's how we can keep our economy strong, our agricultural community vibrant and competitive, and our consumers happy.

Now we've heard that a Delaware Court has ordered Tyson Foods and IBP to resume their merger discussions, because Tyson Foods did not have a contractually permissible reason to terminate its merger agreement with IBP when it announced in March that it was rescinding the transaction. While I do not want to take issue with the court's findings, I am concerned about the fact that this merger looks like it will go through and, consequently, the meat industry will consolidate even further. Beginning last September when Donaldson, Lufkin & Jenrette/Rawhide Holdings Corporation, then Smithfield Foods, and finally Tyson Foods started a bidding war for IBP, I pushed the Justice Department to carefully scrutinize each possible business combination. In January, I wrote the Justice Department urging it to vigorously review the Tyson-IBP transaction from all angles, and to consult with the Agriculture Department to better ascertain the ramifications of such a merger on family farmers and independent producers. I would have thought that a combination of the Nation's largest poultry producer with the world's largest producer of beef and pork products would result in significantly reduced market opportunities, as well as increased the possibility of anti-competitive business practices. I shared the concerns of many farmers and producers that this transaction would adversely impact their ability to obtain fair prices for their products. I was also concerned that a combined IBP-Tyson presence in the retail market would negatively affect product choice and the prices consumers pay at the meat counter.

But the Justice Department determined earlier this year that the potential negative impact on competition was insufficient to sustain an injunction against the merger under the antitrust laws. Because the Justice Department completed its antitrust review in January, I understand that there is nothing further for the Department to do in terms of an antitrust review if the parties re-engage their merger talks in due course and without changes to the transaction. But I remain seriously concerned about the impact this merger will have on our farm community and I hope that, if this merger is ultimately completed, the Justice Department will carefully monitor whether a merged IBP-Tyson will have unintended consequences on competition in the meat economy and, if it does, take appropriate action.

Nevertheless, this development re-energizes my gut feeling that we need to somehow change the way ag mergers are reviewed and approved. So, today I'm re-introducing a bill I authored last year, the ''Agriculture Competition Enhancement Act,'' to help address some of the competition concerns of America's family farmers and independent producers. My bill will refocus the merger review process as it pertains to agri-business, and will enhance the Department of Agriculture's ability to address anti-competitive activity in agriculture. I believe that bringing to the table a greater understanding of ag producers' needs when ag mergers are reviewed is the biggest missing element to making the merger review process as fair as possible. Closing this gap is the heart of my proposal.

Several provisions in the ''Agriculture Competition Enhancement Act'' are based on proposals by the American Farm Bureau, the largest organization representing producers of agricultural commodities. However, I'd like to briefly discuss what I believe to be the most important components of this bill: the enhancement of the Department of Agriculture's role in the Hart-Scott-Rodino review process, the creation of a new ''impact on family farmers and independent producers'' standard of review by the Department of Agriculture for ag mergers, and the expansion of the Department of Agriculture's ability to take regulatory and enforcement action with respect to anti-competitive and unfair practices in the agricultural sector.

Far more than the Justice Department or the Federal Trade Commission, the Department of Agriculture has extraordinary knowledge and expertise in agricultural matters. The Department of Agriculture formulates ag policy for the Nation, and works closely with the farm community about their various concerns. So, I believe that the Department of Agriculture is the office that can best assess the true impact of ag mergers and other business transactions on farmers, ranchers and independent producers. That is why my bill seeks to expand and enhance the role that the Department of Agriculture plays in the antitrust review of ag mergers.

Currently, when the Justice Department or the Federal Trade Commission assesses a proposed merger, the focus of their analysis is weighted heavily toward the impact of the transaction on consumers. However, agriculture is unique. The antitrust laws already recognize this with the ag cooperative exception. But I believe we need to go further by requiring the Justice Department and Federal Trade Commission to specifically take into account the effect ag mergers have on family

farmers and producers. The ''Agriculture Competition Enhancement Act'' would do just that by requiring the Department of Agriculture to conduct an assessment of how a proposed ag transaction will affect family farmers and independent producers and their access to the market.

I realize that presently the Justice Department and Federal Trade Commission informally consult with the Department of Agriculture when they consider ag mergers. But I believe that the current process does not sufficiently ensure that the farm community's concerns are being adequately addressed. The approach I advocate will ensure that producers' concerns and needs are fully discussed when federal agencies examine proposed ag business mergers. By guaranteeing inclusion and openness for family farmers and independent producers, we can go a long way toward alleviating their understandable anxiety about an increasingly concentrated industry.

So my bill requires the Department of Agriculture to do a merger review that focuses on the needs of producers by examining whether the transaction would cause substantial harm to farmers' ability to compete in the marketplace. This review would be conducted simultaneously with the Justice Department's antitrust review, in order to minimize disruption to the current merger review process. Further, my bill encourages the parties and the Department of Agriculture to resolve concerns about the proposed merger during this timeframe. If its concerns are not satisfied, the Department of Agriculture has the ability to challenge the merger in federal court to either stop the merger, or to impose appropriate conditions or limitations on the proposed transaction.

Recognizing that the Department of Agriculture needs to have an individual who will perform this new antitrust responsibility, my bill calls for the creation of a Special Counsel for Competition Matters at the Department of Agriculture. My bill also provides for increased funding for competition matters, and authorizes additional specialized staff—including antitrust attorneys and economists—at the Justice Department and Department of Agriculture, to ensure that these agencies have the appropriate resources to accomplish the goals of this legislation.

Furthermore, under my bill, the competition protection authorities of the Department of Agriculture's Packers and Stockyards Division are extended to include anti-competitive practices by dealers, processors and commission merchants of all ag commodities. This expanded authority, based on provisions in the current Packers and Stockyards Act, will give the Department of Agriculture an increased ability to look at unfair, deceptive and predatory business practices by all ag businesses, not just packers and poultry farmers.

As my colleagues from rural States know, ag concentration is one of the most important issues in agriculture today. Other members here in Congress have introduced bills or are presently working to craft their own legislative proposals to respond to the concerns of America's farmers. I want it to be clearly understood that it is my desire to work with my colleagues on both sides of the aisle, as well as the Bush Administration, so that we can make meaningful progress on this issue. I know that my proposal has its critics, but I am willing and ready to listen to their concerns and work on constructive changes to my bill. But I truly hope that we can achieve a bipartisan compromise sooner rather than later on this issue, so we can calm farmers' fears about high levels of ag concentration.

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. 1076

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 ''Agriculture Competition Enhancement Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) AGRICULTURAL COOPERATIVE.—The term ''agricultural cooperative'' means an association of persons that meets the requirements of the Capper-Volstead Act (7 U.S.C. 291 et seq.; 42 Stat. 388).

(3) AGRICULTURAL INPUT SUPPLIER.—The term ''agricultural input supplier'' means any person (excluding agricultural cooperatives) engaged in the business of selling in commerce, any product to be used as an input (including seed, germ plasm, hormones, antibiotics, fertilizer, and chemicals, but excluding farm machinery) for the production of any agricultural commodity.

(4) ASSISTANT ATTORNEY GENERAL.—The term ''Assistant Attorney General'' means the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

(5) BROKER.—The term ''broker'' means any person (excluding agricultural cooperatives) engaged in the business of negotiating sales and purchases of any agricultural commodity in commerce for or on behalf of the vendor or the purchaser.

(6) COMMISSION MERCHANT.—The term ''commission merchant'' means any person (excluding agricultural cooperatives) engaged in the business of receiving in commerce any agricultural commodity for sale, on commission, or for or on behalf of another.

(7) DEALER.—The term ''dealer'' means any person (excluding agricultural cooperatives) engaged in the business of buying, selling, or marketing agricultural commodities in commerce, except that no person shall be considered a dealer with respect to sales or marketing of any agricultural commodity of that person's own raising.

(8) PROCESSOR.—The term ''processor'' means any person (excluding agricultural cooperatives) engaged in the business of handling, preparing, or manufacturing (including slaughtering) of an agricultural commodity, or the products of such agricultural commodity, for sale or marketing in commerce for human consumption but not with respect to sale or marketing at the retail level.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(10) SPECIAL COUNSEL.—The term ''Special Counsel'' means the Special Counsel for Competition Matters at the Department of Agriculture.

SEC. 3. SPECIAL COUNSEL FOR COMPETITION MATTERS.

(a) IN GENERAL.—There shall be established within the Department of Agriculture a Special Counsel for Competition Matters whose primary responsibilities shall be to—

(1) analyze mergers within the food and agricultural sectors, in consultation with the Chief Economist of the Department of Agriculture, as required by section 4; and

(2) assure that section 5, and the Packers and Stockyards Act and related authorities, are enforced appropriately.

(b) APPOINTMENT.—The Special Counsel for Competition Matters shall be appointed by the President subject to the advice and consent of the Senate.

(c) PROSECUTORIAL AUTHORITY.—The Special Counsel for Competition Matters shall have the authority to bring any civil action authorized pursuant to this Act on behalf of the United States.

SEC. 4. AGRIBUSINESS MERGER REVIEW AND ENFORCEMENT BY THE DEPARTMENT OF AGRICULTURE.

(a) NOTICE OF FILING.—The Assistant Attorney General or the Federal Trade Commission, as appropriate, shall notify the Secretary of Agriculture of any filing pursuant to section 7A of the Clayton Act (15 U.S.C. 18a) involving a merger or acquisition described in subsection (b)(1), and shall give the Secretary of Agriculture the opportunity to participate in the review proceedings.

(b) SPECIAL COUNSEL REVIEW.—

(1) IN GENERAL.—In addition to the antitrust review conducted by the Federal Trade Commission or Assistant Attorney General pursuant to section 7A of the Clayton Act (15 U.S.C. 18a), and notwithstanding any participation in those antitrust review proceedings, the Special Counsel for Competition Matters, in consultation with the Chief Economist of the Department of Agriculture, shall, contemporaneously, observing the time period limitations provided under the antitrust laws and the Department of Justice merger guidelines, and utilizing the factors set forth in subsection (d), review, to determine whether the proposed transaction would cause substantial harm to the ability of independent producers and family farmers to compete in the marketplace, any merger or acquisition involving—

(A) a dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities with annual net sales or total assets of more than $100,000,000 merging or acquiring, directly or indirectly, any voting securities or assets of any other dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities with annual net sales or total assets of more than $10,000,000; or

(B) a dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities with annual net sales or total assets of more than $10,000,000 merging or acquiring, directly or indirectly, any voting securities or assets of any other dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities with annual net sales or total assets of more than

$100,000,000 if the acquiring person would hold—

(i) 15 percent or more of the voting securities or assets of the acquired person; or

(ii) an aggregate total amount of the voting securities and assets of the acquired person in excess of $15,000,000.

(2) EXCEPTION.—The Special Counsel for Competition Matters, at his or her discretion, may also request that the Assistant Attorney General or the Federal Trade Commission require section 7A of the Clayton Act (15 U.S.C. 18a) notification of an agriculture merger or acquisition of a size smaller than is required under paragraph (1), if the Special Counsel for Competition Matters believes that such transaction will cause substantial harm to the ability of independent producers and family farmers to compete in the market.

(c) NOTIFICATION ON FAILURE TO PROCEED.—If the Assistant Attorney General or the Federal Trade Commission determines not to proceed against the parties of an agriculture merger or acquisition under the antitrust laws, the Assistant Attorney General or the Federal Trade Commission immediately shall notify the Special Counsel for Competition Matters of such decision.

(d) STANDARD OF REVIEW.—

(1) IN GENERAL.—The Special Counsel for Competition Matters, in consultation with the Chief Economist of the Department of Agriculture, shall review, and may challenge, a merger or acquisition described in subsection (b) based on whether the merger or acquisition would cause substantial harm to the ability of independent producers and family farmers to compete in the marketplace.

(2) FACTORS.—The review shall consider, among other factors—

(A) the effect of the acquisition or merger on prices paid to producers who sell to, buy from, or bargain with, one or more of the parties involved in the merger or acquisition;

(B) the likelihood that the acquisition or merger will result in significantly increased market power for the new or surviving entity;

(C) the likelihood that the acquisition or merger will increase the potential for anticompetitive or predatory conduct by the new or surviving entity; and

(D) whether the acquisition or merger will adversely affect producers in a particular regional area, including an area as small as a single State.

(e) EVIDENTIARY POWERS.—The Special Counsel for Competition Matters shall have the same powers as possessed by the Assistant Attorney General and the Federal Trade Commission under the antitrust laws, to obtain evidence necessary to make determinations for the review described in subsection (b).

(f) ACCESS TO ATTORNEY GENERAL AND FEDERAL TRADE COMMISSION INFORMATION.—The Assistant Attorney General or the Federal Trade Commission, as appropriate, shall make available to the Special Counsel for Competition Matters any information, including any testimony, documentary material, or related information relevant to the review conducted by the Special Counsel under this section which is under the control of the Assistant Attorney General or the Federal Trade Commission. Each agency will share information, consistent with applicable confidentiality restrictions, in order to provide the others with information believed to be potentially relevant and useful to the others' enforcement responsibilities. Such information may include legal, economic, and technical assistance.

(g) TRANSMITTAL OF FINDINGS OF SPECIAL COUNSEL FOR COMPETITION MATTERS.—After receiving notice pursuant to subsection (a) and conducting the review required in subsection (b), the Secretary of Agriculture shall report to the Assistant Attorney General or the Federal Trade Commission, as appropriate, and the parties, the findings of the review, including any recommended conditions on the merger or suggested remedies.

(h) RESPONSE TO SPECIAL COUNSEL FINDINGS.—

(1) ANTITRUST AGENCY RESPONSE TO FINDINGS.—The Assistant Attorney General or the Federal Trade Commission, as appropriate, shall provide the Special Counsel for Competition Matters a response, including the rationale as to why such findings and recommendations are accepted or rejected.

(2) PARTY OPPORTUNITY TO ADDRESS FINDINGS.—The parties to the merger or acquisition affected by such findings shall have the opportunity to make changes to their operations or structure, and to negotiate with the Special Counsel for Competition Matters an acceptable resolution to any concerns raised in the findings.

(i) ENFORCEMENT.—

(1) JUDICIAL ACTION.—Not later than 30 days after notification by the Assistant Attorney General or the Federal Trade Commission of their determination not to proceed against the parties, the Special Counsel for Competition Matters, if he or she is not satisfied with the review of, or the conditions placed on, the merger or acquisition by the Assistant Attorney General or the Federal Trade Commission, may challenge the transaction in Federal court based on the findings conducted in the review under this section.

(2) ENFORCEMENT AND DAMAGES.—The enforcement and damage provisions of the antitrust laws shall apply with respect to a violation of the substantial harm to producers and family farmers standard of subsection (d) in the same manner as such sections apply with respect to a violation of the antitrust laws.

(j) CONFORMING AMENDMENTS TO ANTITRUST LAWS.—Section 7A of the Clayton Act (15 U.S.C. 18a) is amended by inserting at the end the following:

''(k)(1) Notwithstanding the threshold requirements of sections 1, 2, and 3, the Federal Trade Commission and the Assistant Attorney General may require, at the request of the Secretary of Agriculture, notification pursuant to the rules under subsection (d)(1) from the parties to a proposed merger or acquisition in the agriculture industry.

''(2) The Assistant Attorney General or the Federal Trade Commission, as appropriate, shall give the Secretary of Agriculture the opportunity to participate in the review under the antitrust laws of any proposed merger or acquisition involving the agriculture industry.''.

SEC. 5. PROHIBITIONS AGAINST UNFAIR PRACTICES IN TRANSACTIONS INVOLVING AGRICULTURAL COMMODITIES AND ENFORCEMENT.

(a) UNLAWFUL PRACTICES.—It shall be unlawful for any dealer, processor, commission merchant, or broker of any agricultural commodity to—

(1) engage in or use any unfair, unjustly discriminatory, or deceptive practice or device;

(2) make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage;

(3) sell or otherwise transfer to or for any other dealer, processor, commission merchant, or broker, or buy or otherwise receive from or for any other dealer, processor, commission merchant, or broker, any article for the purpose or with the effect of apportioning the supply between any such persons, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly;

(4) sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce;

(5) engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce;

(6) conspire, combine, agree, or arrange with any other person—

(A) to apportion territory for carrying on business;

(B) to apportion purchases or sales of any article; or

(C) to manipulate or control prices; or

(7) conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by paragraph (1), (2), (3), (4), or (5).

(b) PROCEDURE BEFORE SECRETARY FOR VIOLATIONS.—

(1) COMPLAINT; HEARING; INTERVENTION.—If the Secretary has reason to believe that any dealer, processor, commission merchant, or broker, has violated or is violating any provision of this section, the Secretary shall cause a complaint in writing to be served upon the dealer, processor, commission merchant, or broker, stating the charges in that respect, and requiring the dealer, processor, commission merchant, or broker, to attend and testify at a hearing at a time and place designated therein, at least 30 days after the service of such complaint; and at such time and place there shall be afforded the dealer, processor, commission merchant, or broker, a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the dealer, processor, commission merchant, or broker, be adjourned for a period not exceeding 15 days.

(2) REPORT AND ORDER; PENALTY.—If, after such hearing, the Secretary finds that the dealer, processor, commission merchant, or broker, has violated or is violating any provisions of this section covered by the charges, the Secretary shall make a report in writing in which the Secretary shall state his findings as to the facts, and shall issue and cause to be served on the dealer, processor, commission merchant, or broker, an order requiring such dealer, processor, commission merchant, or broker, to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than $10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the

affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may proceed to recover such penalty by an action in the appropriate district court of the United States.

(3) AMENDMENT OF REPORT OR ORDER.—Until the record in such hearing has been filed in a court of appeals of the United States, as provided in subsection (c), the Secretary at any time, upon such notice and in such manner as the Secretary deems proper, but only after reasonable opportunity to the dealer, processor, commission merchant, or broker, to be heard, may amend or set aside the report or order, in whole or in part.

(4) SERVICE OF PROCESS.—Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(c) CONCLUSIVENESS OF ORDER; APPEAL AND REVIEW.—

(1) FILING OF PETITION; BOND.—An order made under subsection (b) shall be final and conclusive unless within 30 days after service the dealer, processor, commission merchant, or broker, appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such dealer, processor, commission merchant, or broker, will pay the costs of the proceedings if the court so directs.

(2) FILING OF RECORD BY SECRETARY.—The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(3) TEMPORARY INJUNCTION.—At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the dealer, processor, commission merchant, or broker, and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(4) EVIDENCE.—The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case.

(5) ACTION BY THE COURT.—The court may affirm, modify, or set aside the order of the Secretary.

(6) ADDITIONAL EVIDENCE.—If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file such modified or new findings and his recommendations, if any, for the modifications or setting aside of his order, with the return of such additional evidence.

(7) INJUNCTION.—If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the dealer, processor, commission merchant, or broker, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(8) FINALITY.—The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, United States Code, if such writ is duly applied for within 60 days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction unless so ordered by the Supreme Court.

(d) PUNISHMENT FOR VIOLATION OF ORDER.—Any dealer, processor, commission merchant, or broker, or any officer, director, agent, or employee of a dealer, processor, commission merchant, or broker, who fails to obey any order of the Secretary issued under the provisions of subsection (b), or such order as modified—

(1) after the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time;

(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) after such order, or such order as modified, has been sustained by the courts as provided in subsection (c);

shall on conviction be fined not less than $500 nor more than $10,000, or imprisoned for not less than 6 months nor more than 5 years, or both. Each day during which such failure continues shall be deemed a separate offense.

SEC. 6. REPORT ON CORPORATE STRUCTURE.

A dealer, processor, commission merchant, or broker with annual sales in excess of $100,000,000 shall annually file with the Secretary a report which describes, with respect to both domestic and foreign activities, the strategic alliances, ownership in other agribusiness firms or agribusiness-related firms, joint ventures, subsidiaries, and brand names, interlocking boards of directors with other corporations, representatives, and agents that lobby Congress on behalf of such dealer, processor, commission merchant, or broker, as determined by the Secretary.

SEC. 7. PROHIBITION ON CONFIDENTIALITY CLAUSES IN LIVESTOCK AND POULTRY PRODUCTION CONTRACTS.

Confidentiality clauses barring a party to a contract from sharing terms of such contract for the purposes of obtaining legal or financial advice, are prohibited in livestock production contracts and grain production contracts (except to the extent a legitimate trade secret (as applied in the Freedom of Information Act, 5 U.S.C. 552 et seq.) is being protected).

SEC. 8. PROTECTIONS FOR CONTRACT POULTRY GROWERS.

(a) REMOVAL OF POULTRY SLAUGHTER REQUIREMENT FROM DEFINITIONS.—Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182) is amended—

(1) by striking paragraph (8) and inserting the following new paragraph:

''(8) the term 'poultry grower' means any person engaged in the business of raising or caring for live poultry under a poultry growing arrangement, whether the poultry is owned by such person or by another person;'';

(2) in paragraph (9), by striking ''and cares for live poultry for delivery, in accord with another's instructions, for slaughter'' and inserting ''or cares for live poultry in accord with another person's instructions''; and

(3) in paragraph (10), by striking ''for the purpose of either slaughtering it or selling it for slaughter by another''.

(b) ADMINISTRATIVE ENFORCEMENT AUTHORITY OVER LIVE POULTRY DEALERS.—Sections 203, 204, and 205 of such Act (7 U.S.C. 193, 194, 195) are amended by inserting ''or live poultry dealer'' after ''packer'' each place it appears.

(c) AUTHORITY TO REQUEST TEMPORARY INJUNCTION OR RESTRAINING ORDER.—Section 408 of such Act (7 U.S.C. 229) is amended by striking ''on account of poultry'' and inserting ''on account of poultry or poultry care''.

(d) VIOLATIONS BY LIVE POULTRY DEALERS.—Section 411 of such Act (7 U.S.C. 228b–2) is amended—

(1) in subsection (a), by striking ''any provision of section 207 or section 410 of''; and

(2) in subsection (b), by striking ''any provisions of section 207 or section 410'' and inserting ''any provision''.

SEC. 9. AUTHORITY TO MAKE BUSINESS AND INDUSTRY GUARANTEED LOANS FOR FARMER-OWNED PROJECTS THAT ADD VALUE TO OR PROCESS AGRICULTURAL PRODUCTS.

Section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)) is amended by inserting ''(and in areas other than rural communities, in the case of insured loans, if a majority of the project involved is owned by individuals who reside and have farming operations in rural communities, and the project adds value to or processes agricultural commodities)'' after ''rural communities''.

SEC. 10. AUTHORIZATION FOR ADDITIONAL STAFF AND FUNDING FOR AGRICULTURE COMPETITION ENFORCEMENT.

(a) ADDITIONAL STAFF.—The Secretary of Agriculture shall hire sufficient staff, including antitrust and litigation attorneys, economists, and investigators, to appropriately carry out the agribusiness merger review and prohibition against unfair practices responsibilities, described in sections 4 and 5.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to hire the staff referenced in subsection (a) to implement this Act.

SEC. 11. AUTHORIZATION FOR ADDITIONAL STAFF AND FUNDING FOR THE GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION.

There are authorized to be appropriated such sums as are necessary to enhance the capability of the Grain Inspection, Packers and Stockyards Administration to monitor, investigate, and pursue the competitive implications of structural changes in the meat packing industry. Sums are specifically earmarked to hire litigating attorneys to allow the Grain Inspection, Packers and Stockyards Administration to more comprehensively and effectively pursue its enforcement activities.

SEC. 12. ASSISTANT ATTORNEY GENERAL FOR AGRICULTURAL ANTITRUST MATTERS.

(a) IN GENERAL.—There shall be established within the Antitrust Division of the Department of Justice an Assistant Attorney General for Agricultural Antitrust Matters, who shall be responsible for oversight and coordination of antitrust and related matters which affect agriculture, directly or indirectly.

(b) APPOINTMENT.—The Assistant Attorney General for Agricultural Antitrust Matters shall be appointed by the President subject to the advice and consent of the Senate.

SEC. 13. INCREASE IN HART-SCOTT-RODINO FILING FEES.

(a) IN GENERAL.—The filing fee the Federal Trade Commission assesses on a person acquiring voting securities or assets who is required to file premerger notifications under section 7A of the Clayton Act (15 U.S.C. 18a) for mergers and acquisitions satisfying the $15,000,000 size-of-transaction requirement is increased to $100,000 for those transactions valued at more than $100,000,000.

(b) FEES EARMARKED.—The filing fee increase described in subsection (a) is partially earmarked to pay for the costs of staff increases at the Transportation, Energy and Agriculture section at the Department of Justice, as considered necessary by the Assistant Attorney General, to enhance their review of agriculture transactions.

By Mr. LEVIN (for himself, Mr. JEFFORDS, Mr. BAUCUS, Mr. KENNEDY, Ms. STABENOW, Mr. REID, Mr. SCHUMER, Mr. LEAHY, Mr. CORZINE, and Mr. DAYTON):

S. 1078. A bill to promote brownfields redevelopment in urban and rural areas and spur community revitalization in low-income and moderate-income neighborhoods; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEVIN (for himself, Mr. JEFFORDS, Mr. BAUCUS, Mr. KENNEDY, Ms. STABENOW, Mr. REID, Mr. SCHUMER, Mr. LEAHY, Mr. CORZINE, Mr. SARBANES, and Mr. DAYTON):

S. 1079. A bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, I am introducing today, along with Senator JEFFORDS, as co-chairmen of the Senate Smart Growth Task Force, two bills to help communities expedite the economic redevelopment of brownfields. These bills are complementary to S. 350 which we strongly support. Brownfields are abandoned, idled, or under-used industrial and commercial properties where expansion or redevelopment is complicated by real or perceived environmental contamination. More than 450,000 of these sites taint our nation's landscape, inhibiting economic development and posing a threat to human health and the environment. Undeveloped, or underdeveloped, brownfields blight communities forcing development onto greenfields. But redeveloped, these sites offer new opportunities for businesses, housing and green space. Brownfields redevelopment is a fiscally-sound way to bring investment back to neglected neighborhoods, cleanup the environment, reuse existing infrastructure that is already paid for, utilize existing markets and labor pools, and relieve development pressure on our urban fringe and farmlands.

My home State of Michigan is a national leader in brownfields redevelopment. Michigan communities are reclaiming brownfields in urban centers, towns and villages, ensuring that natural areas and greenspaces are less likely to succumb to sprawl when there are brownfield properties available to meet development needs. The City of Kalamazoo has leveraged $28 million in private investment and created over 200 jobs through its brownfields redevelopment program. The city has fully completed development of 4 sites and played a role in the redevelopment of 16 properties, creating new opportunities for commercial and industrial development. The City of St. Ignace, a small community in the Upper Peninsula of Michigan, successfully redeveloped a former railroad property into a community recreation building and conference center. The project, built jointly by the Sault Ste. Marie Chippewa Indian Tribe and the City of St. Ignace, created jobs and has the potential of stimulating additional year-round tourist activities where seasonal unemployment rates range between 20–25 percent during the winter months.

At the Federal level, we need to support local communities and States in their efforts to reclaim brownfields by providing economic development resources to revitalize these sites. The two bills I am introducing today will aid cities like Kalamazoo and St. Ignace in their efforts to promote social well-being and create economic vitality by redeveloping brownfields.

The first bill, the Brownfield Site Redevelopment Assistance Act of 2001, creates a new program within the Department of Commerce's Economic Development Administration, EDA, to provide targeted assistance for projects that redevelop brownfield sites. The Act would provide EDA with a dedicated source of funding for brownfields redevelopment and increased funding flexibility to help States, local communities, Indian tribes and nonprofit organizations restore these sites to productive use. This bill would provide EDA with the authority to facilitate effective economic development planning for reuse; develop the infrastructure necessary to prepare brownfield sites for re-entry into the market; and, provide the capital necessary to support new business development on brownfields. The bill provides $60 million each year for FY2002 to FY2006.

The second bill, the Brownfields Economic Development Act of 2001, would allow the Department of Housing and Urban Development, HUD, to make existing Brownfields Economic Development Initiative, BEDI, grants more easily available to units of general local government and federally-recognized Indian tribes by permitting the Department to make these grants independent of economic development loan guarantees. The bill also provides funding for small communities, known as nonentitlement areas, and federally-recognized Indian tribes.

BEDI grants can help communities redevelop brownfields by providing local governments with a flexible source of funding to pursue brownfields redevelopment through land acquisition, site preparation, economic development and other activities. Currently, BEDI grants are required to support economic development loan guarantees known as Section 108 loan guarantees. To be eligible for these funds, a local community or State must pledge Community Development Block Grant, CDBG, funds as partial collateral for the loan guarantee. This requirement is a significant barrier to many local communities that need assistance to revitalize brownfields, but are unable to pledge these funds. This bill would allow HUD to make BEDI grants independent of economic development loan guarantees, providing critical financial assistance to leverage private sector investment in brownfields.

Many organizations support these bills, including: (1) the Council for Urban Economic Development, (2) Enterprise Foundation, (3) National Association of Business Incubators, (4) National Association of Counties, (5) National Association of Development Organizations, (6) National Association of Installation Developers, (7) National Association of Regional Councils, (8) National Association of Towns and Townships, (9) National Congress for Community Economic Development, (10) National League of Cities, (11) Smart Growth America, and (12) United States Conference of Mayors. Brownfields affect urban, rural and Native American communities. In urban areas, the U.S. Conference of Mayors, USCM, estimates that brownfields redevelopment could generate more than 550,000 additional jobs and up to $2.4 billion in new tax revenues in over one hundred cities surveyed. The cities surveyed by the USCM reported that lack of funding for redevelopment and liability problems arising from Superfund are the major obstacles to reuse. In rural areas it is easy to ''leap frog'' over brownfields to abundant open space. The National Association of Development Organizations, NADO, in a report on reclaiming rural America's brownfields found that Federal agencies are not reaching rural areas through existing brownfields programs, and rural communities need financial and technical assistance to include brownfields in economic development strategies. Indian tribes face a legacy of contamination from former agricultural, industrial and commercial facilities. The Environmental Protection Agency estimates that nationwide there are 1,645 facilities located on tribal lands and 6,982 facilities located within three miles of tribal lands. Nationally, State brownfields programs have facilitated reuse of more than 40,000 sites, but this is less than 10 percent of the estimated 450,000 brownfields nationwide. A report of the National Governors Association stated that assessment and cleanup of brownfields are only part of the process, equally important is physical development of these sites. These two bills would provide the financial resources to help communities and states

realize new private investment and tax revenues from the redevelopment of brownfields, and would assist EDA and HUD to reach rural towns and Indian tribes to support their reuse efforts.

The two bills that Senator JEFFORDS and I are introducing will complement the resources and liability clarifications provided in S. 350, and together these three bills will provide communities with the financial assistance needed to leverage private investment in brownfields and accelerate reuse. Providing economic development resources through HUD and EDA can stimulate brownfields economic development by leveraging private investment into communities, and can give communities the financial resources and technical assistance they need to turn brownfield environmental liabilities into economic assets.

I ask unanimous consent that the text of the two bills and letters of support be printed in the RECORD.

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

S. 1078

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 ''Brownfields Economic Development Act of 2001''.

SEC. 2. ECONOMIC DEVELOPMENT GRANTS.

Section 108(q) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(q)) is amended—

(1) in paragraph (2), by striking ''Assistance'' and inserting ''Except as provided in paragraph (5), assistance'';

(2) in paragraph (3), by striking ''Eligible'' and inserting ''Except as provided in paragraph (5), eligible''; and

(3) by adding at the end the following:

''(5) BROWNFIELDS REDEVELOPMENT GRANTS.—

''(A) GRANT AUTHORITY.—Notwithstanding paragraph (1), of amounts made available to carry out this subsection, the Secretary may make grants, on a competitive basis, to eligible public entities and federally recognized Indian tribes for the redevelopment of brownfield sites, independent of any note or other obligation guaranteed under subsection (a).

''(B) SET-ASIDE.—Of the amounts made available for grants under this paragraph, the Secretary shall set aside not less than 10 percent and not more than 30 percent, which shall be used for brownfield site redevelopment in nonentitlement areas and by federally recognized Indian tribes.

''(C) BROWNFIELD SITE DEFINITION.—

''(i) IN GENERAL.—The term 'brownfield site' means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of—

''(I) a hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)); or

''(II) any other pollutant or contaminant, as determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency.

''(ii) EXCLUSIONS.—Except as provided in clause (iii), the term 'brownfield site' does not include—

''(I) a facility that is the subject of a planned or ongoing removal action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

''(II) a facility that is listed on the National Priorities List, or is proposed for listing, under that Act;

''(III) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties under that Act;

''(IV) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or a facility to which a permit has been issued by the United States or an authorized State under—

''(aa) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

''(bb) the Federal Water Pollution Control Act (33 U.S.C. 1321);

''(cc) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

''(dd) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(V) a facility that—

''(aa) is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)); and

''(bb) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

''(VI) a land disposal unit with respect to which—

''(aa) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(bb) closure requirements have been specified in a closure plan or permit;

''(VII) a facility that is subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe;

''(VIII) a portion of a facility—

''(aa) at which there has been a release of polychlorinated biphenyls; and

''(bb) that is subject to remediation under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

''(IX) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

''(iii) SITE-BY-SITE INCLUSIONS.—The term 'brownfield site', with respect to the provision of financial assistance, includes a site referred to in subclause (I), (IV), (V), (VI), (VIII), or (IX) of clause (ii), if, on a site-by-site basis, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines that use of the financial assistance at the site will—

''(I) protect human health and the environment; and

''(II)(aa) promote economic development; or

''(bb) enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.

''(D) ADDITIONAL INCLUSIONS.—For purposes of subparagraph (C), the term 'brownfield site' includes a site that meets the definition of 'brownfield site' under clauses (i) through (iii) of subparagraph (C) that—

''(i) is contaminated by a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

''(ii)(I) is contaminated by petroleum or a petroleum product excluded from the definition of 'hazardous substance' under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601); and

''(II) is a site determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to be—

''(aa) of relatively low risk, as compared with other petroleum-only sites in the State in which the site is located; and

''(bb) a site for which there is no viable responsible party and that will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site; and

''(III) is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)); or

''(iii) is mine-scarred land.''.

S. 1079

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 ''Brownfield Site Redevelopment Assistance Act of 2001''.

SEC. 2. PURPOSES.

Consistent with section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121), the purposes of this Act are—

(1) to provide targeted assistance, including planning assistance, for projects that promote the redevelopment, restoration, and economic recovery of brownfield sites; and

(2) through such assistance, to further the goals of restoring the employment and tax bases of, and bringing new income and private investment to, distressed communities that have not participated fully in the economic growth of the United States because of a lack of an adequate private sector tax base to support essential public services and facilities.

SEC. 3. DEFINITIONS.

Section 3 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122) is amended—

(1) by redesignating paragraphs (1) through (10) as paragraphs (2) through (11), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

''(1) BROWNFIELD SITE.—

''(A) IN GENERAL.—The term 'brownfield site' means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of—

''(i) a hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)); or

''(ii) any other pollutant or contaminant, as determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency.

''(B) EXCLUSIONS.—Except as provided in subparagraph (C), the term 'brownfield site' does not include—

''(i) a facility that is the subject of a planned or ongoing removal action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

''(ii) a facility that is listed on the National Priorities List, or is proposed for listing on that list, under that Act;

''(iii) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent, or a judicial consent decree that has been issued to or entered into by the parties under that Act;

''(iv) a facility that is the subject of a unilateral administrative order, a court order,

an administrative order on consent, or a judicial consent decree that has been issued to or entered into by the parties, or a facility to which a permit has been issued by the United States or an authorized State, under—

''(I) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

''(II) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(III) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

''(IV) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(v) a facility—

''(I) that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)); and

''(II) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

''(vi) a land disposal unit with respect to which—

''(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(II) closure requirements have been specified in a closure plan or permit;

''(vii) a facility that is subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe;

''(viii) a portion of a facility—

''(I) at which there has been a release of polychlorinated biphenyls; and

''(II) that is subject to remediation under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

''(ix) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.

''(C) SITE-BY-SITE INCLUSIONS.—The term 'brownfield site' includes a site referred to in clause (i), (iv), (v), (vi), (viii), or (ix) of subparagraph (B), if, on a site-by-site basis, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines that use of the financial assistance at the site will—

''(i) protect human health and the environment; and

''(ii)(I) promote economic development; or

''(II) enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.

''(D) ADDITIONAL INCLUSIONS.—The term 'brownfield site' includes a site that meets the definition of 'brownfield site' under subparagraphs (A) through (C) that—

''(i) is contaminated by a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

''(ii)(I) is contaminated by petroleum or a petroleum product excluded from the definition of 'hazardous substance' under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601); and

''(II) is a site determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to be—

''(aa) of relatively low risk, as compared with other petroleum-only sites in the State in which the site is located; and

''(bb) a site for which there is no viable responsible party and that will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site; and

''(III) is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)); or

''(iii) is mine-scarred land.''; and

(3) by adding at the end the following:

''(12) UNUSED LAND.—The term 'unused land' means any publicly-owned or privately-owned unused, underused, or abandoned land that is not contributing to the quality of life or economic well-being of the community in which the land is located.''.

SEC. 4. COORDINATION.

Section 103 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by inserting ''(a) COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.—'' before ''The Secretary''; and

(2) by adding at the end the following:

''(b) BROWNFIELD SITE REDEVELOPMENT.—The Secretary shall coordinate activities relating to the redevelopment of brownfield sites under this Act with other Federal agencies, States, local governments, consortia of local governments, Indian tribes, nonprofit organizations, and public-private partnerships.''.

SEC. 5. GRANTS FOR BROWNFIELD SITE REDEVELOPMENT.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) is amended—

(1) by redesignating sections 210 through 213 as sections 211 through 214, respectively; and

(2) by inserting after section 209 the following:

''SEC. 210. GRANTS FOR BROWNFIELD SITE REDEVELOPMENT.

''(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants for projects to alleviate or prevent conditions of excessive unemployment, underemployment, blight, and infrastructure deterioration associated with brownfield sites, including projects consisting of—

''(1) development of public facilities;

''(2) development of public services;

''(3) business development (including funding of a revolving loan fund);

''(4) planning;

''(5) technical assistance; and

''(6) training.

''(b) CRITERIA FOR GRANTS.—The Secretary may provide a grant for a project under this section only if—

''(1) the Secretary determines that the project will assist the area where the project is or will be located to meet, directly or indirectly, a special need arising from—

''(A) a high level of unemployment or underemployment, or a high proportion of low-income households;

''(B) the existence of blight and infrastructure deterioration;

''(C) dislocations resulting from commercial or industrial restructuring;

''(D) outmigration and population loss, as indicated by—

''(i)(I) depletion of human capital (including young, skilled, or educated populations);

''(II) depletion of financial capital (including firms and investment); or

''(III) a shrinking tax base; and

''(ii) resulting—

''(I) fiscal pressure;

''(II) restricted access to markets; and

''(III) constrained local development potential; or

''(E) the closure or realignment of—

''(i) a military or Department of Energy installation; or

''(ii) any other Federal facility; and

''(2) except in the case of a project consisting of planning or technical assistance—

''(A) the Secretary has approved a comprehensive economic development strategy for the area where the project is or will be located; and

''(B) the project is consistent with the comprehensive economic development strategy.

''(c) PARTICULAR COMMUNITY ASSISTANCE.—Assistance under this section may include assistance provided for activities identified by a community, the economy of which is injured by the existence of 1 or more brownfield sites, to assist the community in—

''(1) revitalizing affected areas by—

''(A) diversifying the economy of the community; or

''(B) carrying out industrial or commercial (including mixed use) redevelopment projects on brownfield sites or sites adjacent to brownfield sites;

''(2) carrying out development that conserves environmental and agricultural resources by—

''(A) reusing existing facilities and infrastructure;

''(B) reclaiming unused land and abandoned buildings; or

''(C) creating publicly owned parks, playgrounds, recreational facilities, or cultural centers that contribute to the economic revitalization of a community; or

''(3) carrying out a collaborative economic development planning process, developed with broad-based and diverse community participation, that addresses the economic repercussions and opportunities posed by the existence of brownfield sites in an area.

''(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY ELIGIBLE RECIPIENT.—

''(1) IN GENERAL.—Subject to paragraph (2), an eligible recipient of a grant under this section may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

''(2) LIMITATION.—Under paragraph (1), an eligible recipient may not provide any grant to a private for-profit entity.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. prec. 3121) is amended by striking the items relating to sections 210 through 213 and inserting the following:

''Sec. 210. Grants for brownfield site redevelopment.
''Sec. 211. Changed project circumstances.
''Sec. 212. Use of funds in projects constructed under projected cost.
''Sec. 213. Reports by recipients.
''Sec. 214. Prohibition on use of funds for attorney's and consultant's fees.''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231 et seq.) is amended by adding at the end the following:

''SEC. 704. AUTHORIZATION OF APPROPRIATIONS FOR BROWNFIELD SITE REDEVELOPMENT.

''(a) IN GENERAL.—In addition to amounts made available under section 701, there is authorized to be appropriated to carry out section 210 $60,000,000 for each of fiscal years 2002 through 2006, to remain available until expended.

''(b) FEDERAL SHARE.—Notwithstanding section 204, subject to section 205, the Federal share of the cost of activities funded with amounts made available under subsection (a) shall be not more than 75 percent.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42

U.S.C. prec. 3121) is amended by adding at the end of the items relating to title VII the following:

''Sec. 704. Authorization of appropriations for brownfield site redevelopment.''.

THE ENTERPRISE FOUNDATION,
Columbia, MD, June 6, 2001.

Hon. CARL LEVIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEVIN: The Enterprise Foundation commends you for introducing with Senator Jeffords the ''Brownfield Site Redevelopment Assistance Act of 2001'' and the ''Brownfields Economic Development Act of 2001.'' Enterprise strongly support these two bills.

Enterprise is a national nonprofit organization that raises resources and channels them to grassroots at the local level for affordable housing, economic development and other community revitalization initiatives in distressed urban and rural neighborhoods nationwide. Central to our mission is generating investment in areas suffering from blight, neglect and disinvestment. Brownfields are prime examples of such areas.

Enterprise is engaged in several large-scale brownfield redevelopment efforts around the country. Targeted incentives such as your bills provide would enable Enterprise and others in the private sector to convert more brownfields to productive uses.

By spurring brownfields redevelopment, your bills direct limited public resources to places that already benefit from existing infrastructure and promote economic investment where it is needed most. The bills epitomize smart growth and comprehensive community development principles.

Thank you for your leadership on this important issue.

Sincerely,

F. BARTON HARVEY III,
Chairman and Chief Executive Officer.

NATIONAL ASSOCIATION OF COUNTIES,
March 15, 2001.

Hon. CARL LEVIN,
Russell Senate Office Building,
Washington, DC.

Hon. JAMES JEFFORDS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LEVIN AND SENATOR JEFFORDS: The National Association of Counties (NACo) commends both of your efforts in offering bipartisan legislation to address the redevelopment of brownfields.

NACo advocates for the redevelopment of these sites, in both urban and rural counties, as a component of a county's broader interest in achieving sustainable development on a regional basis. Redevelopment of abandoned or underutilized sites can stimulate economic revitalization in the surrounding areas, and preserve green space by providing an alternative to unchecked urban sprawl. Therefore, NACo strongly supports language mandating the development of a comprehensive economic development strategy.

We applaud your efforts to provide assistance for redevelopment projects that promote the redevelopment, restoration and economic recovery of brownfield sites. Furthermore, NACo supports the legislative objective of bringing new income and private investment to distressed communities that have not fully participated in the nationwide economic expansion. This legislation is closely aligned with NACo policy objectives, and we offer our support during the legislative process.

Thank you for your leadership on this important issue. Please feel free to contact Cassandra Matthews, Associate Legislative Director, at (202) 942–4204 if you need additional information or assistance.

Sincerely,

LARRY E. NAAKE,
Executive Director.

NATIONAL ASSOCIATION OF
DEVELOPMENT ORGANIZATIONS,
Washington, DC, March 9, 2001.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: On behalf of the National Association of Development Organizations (NADO), I am writing to express our strong support for your efforts to enhance and support the Economic Development Administration's (EDA's) brownfields redevelopment activities.

As a national association representing regional planning and development organizations that provide valuable professional and technical assistance to over 1,800 counties and 15,000 small cities and towns, we recognize the value and benefits of returning former commercial and industrial sites to productive use. This includes targeting sites in small metropolitan and rural America, as well as our urban centers.

In addition to being encouraged and supportive of congressional efforts to strengthen the Environmental Protection Agency's (EPA's) brownfields portfolio, we also recognize the unique tools and experience that EDA has to offer local communities. While EPA has implemented effective assessment and clean up programs, there is a tremendous need for federal programs focused on redeveloping and transforming the former brownfields sites into productive facilities.

Over the past 35 years, EDA has developed a successful track record in partnering with local communities to revitalize, upgrade and expand former commercial sites into industrial facilities that help create quality jobs, expand the local tax base and improve the quality of life in the area. This includes making the necessary investments in infrastructure, as well as providing essential planning and technical assistance.

EDA has also proven to be an effective federal partner for EPA, with the two federal agencies leveraging their funding and particular expertise to assist communities. Therefore, we strongly support your efforts to provide EDA with the resources and program tools needed to help small metropolitan and rural communities convert brownfields into economic development opportunities.

Sincerely,

ALICEANN WOHLBRUCK,
Executive Director.

SMART GROWTH AMERICA,
Washington, DC, April 4, 2001.

Hon. JAMES JEFFORDS,
Co-Chair, Senate Smart Growth Task Force, U.S. Senate, Washington, DC.

Hon. CARL LEVIN,
Co-Chair, Senate Smart Growth Task Force, U.S. Senate, Washington, DC.

DEAR SENATOR JEFFORDS AND SENATOR LEVIN: Smart Growth America would like to thank you for your leadership on the introduction of the Brownfields Economic Development Act of 2001 and the Brownfields Site Redevelopment Assistance Act of 2001. We strongly support these bills and your efforts to complement the Brownfields Revitalization and Environmental Restoration Act of 2001 by focusing on the physical redevelopment of brownfields.

S. 350 provides needed liability relief and funding to inventory, assess and remediate brownfield sites. These two new bills build upon S. 350 by providing communities with additional economic development resources to return brownfields to productive use.

Economic development of brownfield sites is an essential element of smart growth—growth that revitalizes neighborhoods, creates and preserves affordable housing, promotes transportation choice, and preserves open space and farmland. And, it makes economic sense. The U.S. Conference of Mayors found that as much as $2.4 billion annually could be generated in new tax revenues by fully tapping into the potential of our nation's brownfields. This economic development could create more than 550,000 new jobs.

The Brownfields Economic Development Act and the Brownfield Site Redevelopment Assistance Act improve the ability of the Department of Housing and Urban Development (HUD) and the Department of Commerce's Economic Development Administration to fund and assist communities in their efforts to develop their brownfields and return them to productive use. We applaud your efforts and look forward to working with you to see the timely passage of these measures.

Sincerely,

DON CHEN,
Director.

COALITION FOR ECONOMIC DEVELOPMENT,
March 16, 2001.

Hon. CARL LEVIN,
Russell Senate Office Building,
Washington, DC.

Hon. JAMES JEFFORDS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LEVIN AND SENATOR JEFFORDS: The organizations that comprise the Coalition for Economic Development commend both of you for proposing legislation that will address much-needed redevelopment of brownfields.

The establishment within the Economic Development Administration of a revolving loan fund especially devoted to brownfields will quickly increase the amount of money ''on the street'' for redevelopment. EDA has a highly successful track record in operating a revolving loan fund that has put millions of dollars into business development in low-income urban and rural areas and has leveraged millions more.

The requirement to develop a comprehensive economic development strategy will guarantee that different constituents within a community are given a voice in redevelopment planning.

The changes you propose in the Department of House and Urban Development's Section 108 will encourage greater use of this program since it does not tie up future Community Development Block Grant funding that is equally needed for other purposes.

Together, the EDA revolving fund and the HUD grant program will provide local governments, regional councils and non-profits with excellent programs to help redevelop these unutilized and underutilized areas that have become eye-sores that have hindered revitalization in many urban and rural areas. Brownfields redevelopment helps turn those eye-sores into homes, businesses, parks and active commercial districts.

Please feel free to contact any members of the coalition. A list of contacts is attached.

CONTACT LIST

Beverly Nykwest, chair, Director of Policy, National Association of Regional Councils, (202) 457–0710, ext. 20; e-mail: *nykwest&narc.org.*

Paul Kalomiris, Legislative Director, Council for Urban Economic Development, National Association of Installation Developers, (202) 223–4735, e-mail: *pkalomiris@urbandevelopment.com.*

Carol Wayman, Director, Policy Research & Development, National Congress for Community Economic Development, (202) 289–9020, ext. 112, *cwayman@ncced.org*.

Cassandra Matthews, Legislative Assistant, National Association of Counties, (202) 942–4204, e-mail: cmatthew@naco.org.

Scott Shrum, Legislative Assistant, National League of Cities, (202) 626–3020, e-mail: *shrum@nlc.org*.

Tom Halicki, Executive Director, National Association of Towns and Townships, (202) 624–3553, e-mail: thalicki@sso.org.

Eugene Lowe, U.S. Conference of Mayors, (202) 293–7330, e-mail: elowe@usmayors.org.

Laura Marshall, Legislative Representative National Association of Development Organizations, (202) 624–8177, e-mail: *lmarshall@nado.org*.

Dinah Atkins, President and CEO, National Business Incubator Association, (740) 593–4331, e-mail: *datkins@nbia.org*.

Mr. JEFFORDS. Mr. President, I rise today to join my colleague, Senator LEVIN, in introducing two legislative initiatives that will expand upon the resources available for brownfields revitalization.

The first bill, the Brownfields Site Redevelopment Assistance Act of 2001, provides the Department of Commerce's Economic Development Administration (EDA) with a dedicated source of funding for brownfields. EDA can currently assist communities with brownfields redevelopment when these projects involve infrastructure development or economic adjustment activities, however there is no specific authority or funding for brownfields revitalization.

The second bill, the Brownfields Economic Development Act of 2001, addresses requirements on the Department of Housing and Urban Development's, HUD, Brownfields Economic Development Initiative, BEDI, grant program that are hampering small city brownfields revitalization efforts. BEDI's required link to Section 108 loan guarantees demands that future Community Development Block Grant, CDBG, allocations be pledged as collateral. BEDI's required link to Section 108 serves as a deterrent to many small towns in Vermont and throughout the nation, who do not have the resources to commit to brownfields. Our bill would permit HUD to make grants available independent of economic development loan guarantees. The legislation also provides a 30 percent set aside for small communities and federally-recognized Indian tribes.

This legislation would help communities in Vermont reclaim their older underutilized sites. A prime example is an old mill in the heart of Ludlow, VT which occupies 30,000 square feet of prime downtown land. It is next to residential properties and again, ripe for redevelopment. There are currently Environmental Protection Agency, EPA, funds for assessment to investigate what is in the ground and how much it will cost to clean up. But the owner, the bank and the town are reluctant to act if the site is contaminated. These bills will assist many small towns such as Ludlow access the clean up funding they need to revitalize contaminated sites.

Since the inception of the Senate Smart Growth Task Force in 1999, Senator Levin and I as co-chairs, have been working to expand funding sources for brownfields. This legislation is just one component of the overall effort to restore brownfield sites to productive use in our cities and towns. By advancing this legislation, we will address a critical gap in brownfields' funding for site assessment and clean up, while promoting economic development as well as preservation of farmland and open space.

Mr. BAUCUS. Mr. President, I rise to join my colleagues—Senator JEFFORDS, Senator LEVIN and others—in co-sponsoring the Brownfields Site Redevelopment Assistance Act and the Brownfields Economic Development Act.

These two Acts are important complements to S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001 that the Senate passed unanimously earlier this year. S. 350 encourages the remediation of brownfield sites by reducing financial and legal barriers to clean-up. The Brownfields Site Redevelopment Assistance Act and the Brownfields Economic Development Act expand the abilities of the Economic Development Administration and the Department of Housing and Urban Development to help local communities physically develop and restore brownfield sites to productive use. Taken together, these three bills make up a complete brownfields redevelopment package.

The two Acts introduced today will provide critical economic and technical assistance to communities during all stages of the brownfields redevelopment process—from an initial site assessment to putting the finishing touches on a new apartment building or city park. These bills have enormous potential to enhance and revitalize communities and their economies, to turn neglected wastelands into productive developments, and to create more parks and open spaces. This in turn will create great opportunities for new jobs and economic development. This is particularly true in my State of Montana where we've been working hard to jump start our economy. Montana's industrial past has left the State with its share of brownfield sites—wood treatment facilities, railroad yards, sawmills. Hopefully, this legislation will provide communities with the tools they need to put these sites to productive uses.

The Brownfields Site Redevelopment Assistance Act of 2001 will provide the Economic Development Administration with authority and funding for grants to States, local communities, Indian tribes and non-profit organizations for brownfield redevelopment projects. The Brownfields Economic Development Act of 2001 will make HUD Brownfields Economic Development Initiative grants available to local governments and Indian tribes for community development projects. The bill will also provide a 30 percent set-aside for small communities and tribes, a provision that is very important to a rural State like Montana. The National Association of Development Organizations reports that Federal agencies are not reaching rural areas through existing brownfields programs. Rural communities and tribes in Montana and elsewhere need financial and technical assistance to include brownfields in economic development strategies.

Getting brownfield sites cleaned-up makes good sense in Montana and throughout the nation. That, again, is good for the environment, good for communities, good for our economy, and good for the country. I wholeheartedly support this legislation, and I hope both bills will enjoy swift passage through the Senate.

By Mr. CLELAND:

S. 1080. A bill to amend chapter 84 of title 5, United States Code, to provide that employees who retire as registered nurses under the Federal Employees Retirement System shall have unused sick leave used in the computation of annuities, and for other purposes; to the Committee on Governmental Affairs.

Mr. CLELAND. Mr. President. Statistics from the National League of Nursing and the American Nurses' Association demonstrate the nursing workforce is shrinking. The Federal health sector, employing approximately 45,000 nurses, may be the hardest hit in the near future with an estimated 47 percent of its nursing workforce eligible for retirement in the year 2004. Current and anticipated nursing vacancies in Federal health care agencies are particularly alarming with the increased nursing care needs of an aging America. The Journal of the American Medical Association published a study last year which found the average age of the nursing workforce rose by 4.5 years between 1983 and 1998, mostly because fewer younger people are joining the profession.

It is imperative that the Federal Health Care System recruit and retain nurses in such crucial areas as the Veterans Affairs Health Administration, Department of Defense, Public Health Service, Indian Health Service, and Federal Bureau of Prisons. Nursing shortages will result in major changes in the quality and type of care these agencies can provide to their beneficiaries. There are no quick fixes to recruiting and retaining registered nurses, but Congress must act now on identified problem areas. One identified measure which would help recruit and retain Federal nurses is to address employee benefits. Title 38 currently excludes nurses employed by the Federal health care system after 1983 from including unused sick leave in computation of retirement. Approximately 68 percent of the Federal nurses are enrolled in the Federal Employees Retirement System (FERS). My proposal

would allow registered nurses under FERS to include unused sick leave in the same manner as nurses enrolled in the Civilian Retirement System, (CRS), for computation of retirement benefits. Under CRS regulations, unused sick leave time is added after all of the required retirement criteria are met. With my proposal, registered nurses who have accrued the needed increments of sick leave will retain their hard earned benefit as part of their retirement package.

Nurses played a crucial role in my recovery from injuries incurred in Vietnam. I can not imagine how much more difficult that recovery would have been without the skill and compassion of nurses. I urge my Senate colleagues to support this measure as we continue to look at strategies to prevent the looming Federal nurse shortage.

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

S. 1080

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

SECTION 1. UNUSED SICK LEAVE INCLUDED IN ANNUITY COMPUTATION OF REGISTERED NURSES.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Registered Nurse Retirement Adjustment Act of 2001''.

(b) ANNUITY COMPUTATION.—Section 8415 of title 5, United States Code, is amended by adding at the end the following:

''(i) In computing an annuity under this subchapter, the total service of an employee who retires from the position of a registered nurse on an immediate annuity or dies while employed in that position leaving any survivor entitled to an annuity includes the days of unused sick leave to the credit of that employee under a formal leave system, except that such days shall not be counted in determining average pay or annuity eligibility under this subchapter.''.

(c) DEPOSIT NOT REQUIRED.—Section 8422(d) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' before ''Under such regulations''; and

(2) by adding at the end the following:

''(2) Deposit may not be required for days of unused sick leave credited under section 8415(i).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of enactment of this Act and apply to individuals who separate from service on or after that effective date.

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

S. 1081. A bill to amend the Internal Revenue Code of 1986 to allow a business credit for the development of low-to-moderate income housing for home ownership, and for other purposes; to the Committee on Finance.

Mr. TORRICELLI. Mr. President, I rise today to introduce a bill which builds on the most well received provisions of the highly successful Low to Moderate Income Housing Tax Credit bill, LIHTC, of 1986. The evidence is clear that the entrepreneurial spirit that has been harnessed over the last 15 years in favor of aggressively addressing the Nation's need for rental housing can and should be channeled in response to the dire need for affordable single family hosing in urban America.

Although the economic prosperity enjoyed by this country for a decade led to a home ownership rate that has reached levels of nearly 70 percent, sadly the rate for central cities is 52 percent. One unfortunate reality is that having a good job does not guarantee a family a decent place to live at an affordable rate. According to one report; ''More than 220,000 teachers, police and public safety officers across the country spend more than half their incomes for housing and the problem is, in fact, getting worse.''

Housing experts continually tell us that low homeownership in our urban communities is a result of the lack of quality homes to purchase and not the lack of potential homeowners. Developers have expressed that the high costs associated with building homes in urban areas have acted as a disincentive to developing or redeveloping communities. If supply drives demand as it often does in the case of other commodities then the key to revitalizing neighborhoods that were once jewels is the entrepreneural spirit to build homes.

The use of tax credits to provide a source of capital to dramatically increase the rental housing stock has been a wonderful success. In recent meetings with developers and community development officials in my State of New Jersey, a consistent answer to the question of ''what can we do to spur the development of single family homes'' has been ''just build on the success of the low income housing tax credit program''. Using tax incentives for such critical economic development purposes, such as overcoming capital market shortages is a proven method. In that regard, inclusion of certain industry practice development costs in the ''eligible costs'' basis of the property for computing tax credits and exclusion of the first $10,000 would quite often be just enough to keep developers out of the ''red'' in many urban communities.

In many respects it is only proper that we begin this century recapturing space that once served as home of vibrant neighborhoods and bustling businesses since the middle of the 19th century. Certainly, effective development of space at the core of our urban centers requires building on the pride of ownership, rehabilitating classic structures that are found in all of our older cities and reclaiming land that has served us well.

As we move ahead as a nation it is critical that we not leave many of our urban communities behind. AHEAD, (Affordable Housing and Environmental Action through Development), is a sound approach that cannot be implemented too soon. I urge my colleagues to support this bill. 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. 1081

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Low-to-Moderate Income Home Ownership Tax Credit Act''.

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

SEC. 2. CREDIT FOR LOW-TO-MODERATE INCOME HOUSING FOR HOME OWNERSHIP.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

''SEC. 42A. LOW-TO-MODERATE INCOME HOME OWNERSHIP CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the amount of the home ownership credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the qualified basis of each qualified low-to-moderate income building.

''(b) APPLICABLE PERCENTAGE: 70 PERCENT PRESENT VALUE CREDIT FOR NEW BUILDINGS; 30 PERCENT PRESENT VALUE CREDIT FOR EXISTING BUILDINGS.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable percentage' means the appropriate percentage prescribed by the Secretary for the earlier of—

''(A) the first month of the credit period with respect to a low-to-moderate income building, or

''(B) at the election of the taxpayer, the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building.

A month may be elected under subparagraph (B) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

''(2) METHOD OF PRESCRIBING PERCENTAGES.—The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to—

''(A) 70 percent of the qualified basis of a new building, and

''(B) 30 percent of the qualified basis of an existing building.

''(3) METHOD OF DISCOUNTING.—The present value under paragraph (2) shall be determined—

''(A) as of the last day of the 1st year of the 10-year period referred to in paragraph (2),

''(B) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under subparagraph (A) or (B) of paragraph (1) and compounded annually, and

''(C) by assuming that the credit allowable under this section for any year is received on the last day of such year.

''(c) QUALIFIED BASIS; ELIGIBLE BASIS; QUALIFIED LOW-TO-MODERATE INCOME BUILDING.—For purposes of this section—

''(1) QUALIFIED BASIS.—

''(A) DETERMINATION.—The qualified basis of any qualified low-to-moderate income building for any taxable year is an amount equal to—

''(i) the applicable fraction (determined as of the close of such taxable year) of

''(ii) the eligible basis of such building.

''(B) APPLICABLE FRACTION.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the term 'applicable fraction' means the smaller of the unit fraction or the floor space fraction.

''(ii) UNIT FRACTION.—For purposes of clause (i), the term 'unit fraction' means the fraction—

''(I) the numerator of which is the number of low-to-moderate income units in the building, and

''(II) the denominator of which is the number of all units (whether or not occupied) in such building.

''(iii) FLOOR SPACE FRACTION.—For purposes of clause (i), the term 'floor space fraction' means the fraction—

''(I) the numerator of which is the total floor space of the low-to-moderate income units in such building, and

''(II) the denominator of which is the total floor space of all units (whether or not occupied) in such building.

''(C) ELIGIBLE BASIS.—

''(i) IN GENERAL.—The eligible basis of any qualified low-to-moderate income building for any taxable year shall be determined under rules similar to the rules under section 42(d), except that—

''(I) the determination of the adjusted basis of any building shall be made as of the beginning of the credit period, and

''(II) such basis shall include development costs properly attributable to such building.

''(ii) DEVELOPMENT COSTS.—For purposes of clause (i)(II), the term 'development costs' includes—

''(I) site preparation costs,

''(II) State and local impact fees,

''(III) reasonable development costs,

''(IV) professional fees related to basis items,

''(V) construction financing costs related to basis items other than land, and

''(VI) on-site and adjacent improvements required by State and local governments.

''(2) QUALIFIED LOW-TO-MODERATE INCOME BUILDING.—The term 'qualified low-to-moderate income building' means any building which is part of a qualified low-to-moderate income development project at all times during the period—

''(A) beginning on the 1st day in the compliance period on which such building is part of such a development project, and

''(B) ending on the last day of the compliance period with respect to such building.

''(d) REHABILITATION EXPENDITURES TREATED AS SEPARATE NEW BUILDING.—Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building under the rules of section 42(e).

''(e) DEFINITION AND SPECIAL RULES RELATING TO CREDIT PERIOD.—

''(1) CREDIT PERIOD DEFINED.—For purposes of this section, the term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building (or a low-to-moderate income unit in such building) is first sold by the taxpayer to a low-to moderate income individual after being placed in service.

''(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT PERIOD.—

''(A) IN GENERAL.—The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by substituting for the applicable fraction under subsection (c)(1) the fraction—

''(i) the numerator of which is the sum of the applicable fractions determined under subsection (c)(1) as of the close of each full month of such year during which such building was in service, and

''(ii) the denominator of which is 12.

''(B) DISALLOWED 1ST YEAR CREDIT ALLOWED IN 11TH YEAR.—Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

''(3) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED.—The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

''(f) QUALIFIED LOW-TO-MODERATE INCOME DEVELOPMENT PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified low-to-moderate income development project' means any development project of 1 or more for qualified low-to-moderate income buildings located in an area if 40 percent or more of the residential units in such development project are occupied and owned by individuals whose income is 100 percent or less of area median gross income.

''(2) TREATMENT OF UNITS OCCUPIED BY INDIVIDUALS WHOSE INCOMES RISE ABOVE LIMIT.—Notwithstanding an increase in the income of the occupants of a low-to-moderate income unit above the income limitation applicable under paragraph (2) or (3), such unit shall continue to be treated as a low-to-moderate income unit if the income of such occupants initially met such income limitation and such unit continues to be so restricted.

''(3) CERTAIN RULES MADE APPLICABLE.—Paragraphs (3), (5), (7), and (8) of section 42(g) shall apply for purposes of determining whether any development project is a qualified low-to-moderate income development project.

''(g) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO DEVELOPMENT PROJECTS LOCATED IN A STATE.—

''(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under rules similar to the rules of section 42(h)(1) (determined without regard to subparagraph (D) thereof).

''(2) ALLOCATED CREDIT AMOUNT TO APPLY TO ALL TAXABLE YEARS ENDING DURING OR AFTER CREDIT ALLOCATION YEAR.—Any housing credit dollar amount allocated to any building for any calendar year—

''(A) shall apply to such building for all taxable years in the credit period ending during or after such calendar year, and

''(B) shall reduce the aggregate housing credit dollar amount of the allocating agency only for such calendar year.

''(3) HOUSING CREDIT DOLLAR AMOUNT FOR AGENCIES.—

''(A) IN GENERAL.—The aggregate housing credit dollar amount which a housing credit agency may allocate for any calendar year is the portion of the State housing credit ceiling allocated under this paragraph for such calendar year to such agency.

''(B) STATE CEILING INITIALLY ALLOCATED TO STATE HOUSING CREDIT AGENCIES.—Except as provided in subparagraphs (D) and (E), the State housing credit ceiling for each calendar year shall be allocated to the housing credit agency of such State. If there is more than 1 housing credit agency of a State, all such agencies shall be treated as a single agency.

''(C) STATE HOUSING CREDIT CEILING.—The State housing credit ceiling applicable to any State and any calendar year shall be an amount equal to the sum of—

''(i) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

''(ii) the greater of—

''(I) $1.75 multiplied by the State population, or

''(II) $2,000,000,

''(iii) the amount of State housing credit ceiling returned in the calendar year, plus

''(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State housing credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate housing credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State housing credit ceiling returned in the calendar year equals the housing credit dollar amount previously allocated within the State to any development project which fails to meet the 10 percent test under section 42(h)(1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified low-to-moderate income development project within the period required by this section or the terms of the allocation or to any development project with respect to which an allocation is canceled by mutual consent of the housing credit agency and the allocation recipient.

''(D) UNUSED HOUSING CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

''(i) IN GENERAL.—The unused housing credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

''(ii) UNUSED HOUSING CREDIT CARRYOVER.—For purposes of this subparagraph, the unused housing credit carryover of a State for any calendar year is the excess (if any) of the unused State housing credit ceiling for such year (as defined in subparagraph (C)(i)) over the excess (if any) of —

''(I) the unused State housing credit ceiling for the year preceding such year, over

''(II) the aggregate housing credit dollar amount allocated for such year.

''(iii) FORMULA FOR ALLOCATION OF UNUSED HOUSING CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

''(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

''(I) which allocated its entire State housing credit ceiling for the preceding calendar year, and

''(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

''(E) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—For purposes of this subsection—

''(i) IN GENERAL.—The aggregate housing credit dollar amount for any constitutional home rule city for any calendar year shall be

an amount which bears the same ratio to the State housing credit ceiling for such calendar year as—

''(I) the population of such city, bears to

''(II) the population of the entire State.

''(ii) COORDINATION WITH OTHER ALLOCATIONS.—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying this paragraph with respect to housing credit agencies in such State other than constitutional home rule cities, the State housing credit ceiling for any calendar year shall be reduced by the aggregate housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

''(iii) CONSTITUTIONAL HOME RULE CITY.—For purposes of this paragraph, the term 'constitutional home rule city' has the meaning given such term by section 146(d)(3)(C).

''(F) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

''(G) POPULATION.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

''(H) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of a calendar year after 2002, the $2,000,000 and $1.75 amounts in subparagraph (C) shall each be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—

''(I) In the case of the $2,000,000 amount, any increase under clause (i) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

''(II) In the case of the $1.75 amount, any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.

''(4) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN DEVELOPMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—

''(A) IN GENERAL.—Not more than 90 percent of the State housing credit ceiling for any State for any calendar year shall be allocated to development projects other than qualified low-to-moderate income development projects described in subparagraph (B).

''(B) DEVELOPMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—For purposes of subparagraph (A), a qualified low-to-moderate income development project is described in this subparagraph if a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and operation of the development project throughout the compliance period.

''(C) QUALIFIED NONPROFIT ORGANIZATION.—For purposes of this paragraph, the term 'qualified nonprofit organization' means any organization if—

''(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a),

''(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and

''(iii) 1 of the exempt purposes of such organization includes the fostering of low-to-moderate income housing.

''(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

''(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

''(ii) QUALIFIED CORPORATION.—For purposes of clause (i), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

''(E) STATE MAY NOT OVERRIDE SET-ASIDE.—Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

''(5) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF MINIMUM LONG-TERM COMMITMENT TO LOW-TO-MODERATE INCOME HOUSING.—

''(A) IN GENERAL.—No credit shall be allowed by reason of this section with respect to any building for the taxable year unless a low-to-moderate income housing commitment is in effect as of the end of such taxable year.

''(B) LOW-TO-MODERATE INCOME HOUSING COMMITMENT.—For purposes of this paragraph, the term 'low-to-moderate income housing commitment' means any agreement between the taxpayer and the housing credit agency—

''(i) which requires that the applicable fraction (as defined in subsection (c)(1)(B)) for the building for each taxable year in the compliance period will not be less than the applicable fraction specified in such agreement,

''(ii) which allows individuals who meet the income limitation applicable to the building under subsection (f) (whether prospective, present, or former occupants of the building) the right to enforce in any State court the requirement of clause (i),

''(iii) which allows the taxpayer the right of first refusal to purchase the building from the low-or-moderate income individual to whom the taxpayer first sold the building,

''(iv) which is binding on all successors of the taxpayer, and

''(v) which, with respect to the property, is recorded pursuant to State law as a restrictive covenant.

''(C) ALLOCATION OF CREDIT MAY NOT EXCEED AMOUNT NECESSARY TO SUPPORT COMMITMENT.—The housing credit dollar amount allocated to any building may not exceed the amount necessary to support the applicable fraction specified in the low-to-moderate income housing commitment for such building.

''(D) EFFECT OF NONCOMPLIANCE.—If, during a taxable year, there is a determination that a low-to-moderate income housing agreement was not in effect as of the beginning of such year, such determination shall not apply to any period before such year and subparagraph (A) shall be applied without regard to such determination if the failure is corrected within 1 year from the date of the determination.

''(E) DEVELOPMENT PROJECTS WHICH CONSIST OF MORE THAN 1 BUILDING.—The application of this paragraph to development projects which consist of more than 1 building shall be made under regulations prescribed by the Secretary.

''(6) SPECIAL RULES.—

''(A) BUILDING MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY.—A housing credit agency may allocate its aggregate housing credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

''(B) AGENCY ALLOCATIONS IN EXCESS OF LIMIT.—If the aggregate housing credit dollar amounts allocated by a housing credit agency for any calendar year exceed the portion of the State housing credit ceiling allocated to such agency for such calendar year, the housing credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

''(C) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO SALES CONVENTION, ETC.—

''(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

''(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

''(I) the housing credit dollar amount allocated to such building bears to

''(II) the credit amount determined in accordance with clause (iii).

''(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if this section were applied without regard to paragraph (2)(A) of subsection (e).

''(D) HOUSING CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM QUALIFIED BASIS.—In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection.

''(7) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) HOUSING CREDIT AGENCY.—The term 'housing credit agency' means any agency authorized to carry out this subsection.

''(B) POSSESSIONS TREATED AS STATES.—The term 'State' includes a possession of the United States.

''(h) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) COMPLIANCE PERIOD.—The term 'compliance period' means, with respect to any building, the period of 5 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

''(2) NEW BUILDING.—The term 'new building' means a building the original use of which begins with the taxpayer.

''(3) EXISTING BUILDING.—The term 'existing building' means any building which is not a new building.

''(4) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (j) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

''(i) RECAPTURE OF CREDIT.—If—

''(1) as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than

''(2) the amount of such basis as of the close of the preceding taxable year,

then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount determined under rules similar to the rules of section 42(j).

''(j) APPLICATION OF AT-RISK RULES.—For purposes of this section, rules similar to the rules of section 42(k) shall apply.

''(k) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—

''(1) CERTIFICATION WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD.—Following the close of the 1st taxable year in the credit period with respect to any qualified low-to-moderate income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)—

''(A) the taxable year, and calendar year, in which such building was first sold after being placed in service,

''(B) the adjusted basis and eligible basis of such building as of the beginning of the credit period,

''(C) the maximum applicable percentage and qualified basis permitted to be taken into account by the appropriate housing credit agency under subsection (g),

''(D) the election made under subsection (f) with respect to the qualified low-to-moderate income housing development project of which such building is a part, and

''(E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

''(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

''(A) the qualified basis for the taxable year of each qualified low-to-moderate income building of the taxpayer,

''(B) the information described in paragraph (1)(C) for the taxable year, and

''(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor.

''(3) ANNUAL REPORTS FROM HOUSING CREDIT AGENCIES.—Each agency which allocates any housing credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

''(A) the amount of housing credit amount allocated to each building for such year,

''(B) sufficient information to identify each such building and the taxpayer with respect thereto, and

''(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefor.

''(l) RESPONSIBILITIES OF HOUSING CREDIT AGENCIES.—

''(1) PLANS FOR ALLOCATION OF CREDIT AMONG DEVELOPMENT PROJECTS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless—

''(i) such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part,

''(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such development project and provides such individual a reasonable opportunity to comment on the development project,

''(iii) a comprehensive market study of the housing needs of low- and moderate-income individuals in the area to be served by the development project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

''(iv) a written explanation is available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.

''(B) QUALIFIED ALLOCATION PLAN.—For purposes of this paragraph, the term 'qualified allocation plan' means any plan—

''(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,

''(ii) which also gives preference in allocating housing credit dollar amounts among selected development projects to—

''(I) development projects serving the lowest income owners, and

''(II) development projects which are located in qualified census tracts (as defined in section 42(d)(5)(C)) and the development of which contributes to a concerted community revitalization plan, and

''(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

''(C) CERTAIN SELECTION CRITERIA MUST BE USED.—The selection criteria set forth in a qualified allocation plan must include—

''(i) development project location,

''(ii) housing needs characteristics,

''(iii) development project characteristics, including whether the development project includes the use of existing housing as part of a community revitalization plan,

''(iv) populations with special housing needs,

''(v) low-to-moderate income housing waiting lists, and

''(vi) populations of individuals with children.

''(2) CREDIT ALLOCATED TO BUILDING NOT TO EXCEED AMOUNT NECESSARY TO ASSURE DEVELOPMENT PROJECT FEASIBILITY.—

''(A) IN GENERAL.—The housing credit dollar amount allocated to a development project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the development project and its viability as a qualified low-to-moderate income development project throughout the compliance period.

''(B) AGENCY EVALUATION.—In making the determination under subparagraph (A), the housing credit agency shall consider—

''(i) the sources and uses of funds and the total financing planned for the development project,

''(ii) any proceeds or receipts expected to be generated by reason of tax benefits,

''(iii) the percentage of the housing credit dollar amount used for development project costs other than the cost of intermediaries, and

''(iv) the reasonableness of the developmental and operational costs of the development project.

Clause (iii) shall not be applied so as to impede the development of development projects in hard-to-develop areas.

''(C) DETERMINATION MADE WHEN CREDIT AMOUNT APPLIED FOR AND WHEN BUILDING SOLD.—

''(i) IN GENERAL.—A determination under subparagraph (A) shall be made as of each of the following times:

''(I) The application for the housing credit dollar amount.

''(II) The allocation of the housing credit dollar amount.

''(III) The date the building is first sold after having been placed in service.

''(ii) CERTIFICATION AS TO AMOUNT OF OTHER SUBSIDIES.—Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

''(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) dealing with—

''(A) development projects which include more than 1 building or only a portion of a building,

''(B) buildings which are sold in portions,

''(2) providing for the application of this section to short taxable years,

''(3) preventing the avoidance of the rules of this section, and

''(4) providing the opportunity for housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.

''(n) TERMINATION.—Clause (ii) of subsection (g)(3)(C) shall not apply to any amount allocated after December 31, 2004.''.

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following:

''(14) the home ownership credit determined under section 42A(a).''.

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(10) NO CARRYBACK OF HOME OWNERSHIP CREDIT BEFORE EFFECTIVE DATE.—No amount of unused business credit available under section 42A may be carried back to a taxable year beginning on or before the date of the enactment of this paragraph.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 55(c)(1) of the Internal Revenue Code of 1986 is amended by inserting ''or subsection (i) or (j) of section 42A'' after ''section 42''.

(2) Subsections (i)(c)(3), (i)(c)(6)(B)(i), and (k)(1) of section 469 of such Code are each amended by inserting ''or 42A'' after ''section 42''.

(3) Section 772(a) of such Code is amended by striking ''and'' at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

''(11) the home ownership credit determined under section 42A, and''.

(4) Section 774(b)(4) of such Code is amended by inserting '', 42A(i),'' after ''section 42(j)''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 42 the following:

''Sec. 42A. Low-to-moderate income home ownership credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

SEC. 3. PARTIAL EXCLUSION OF GAIN FROM SALE OF LOW-TO-MODERATE INCOME HOUSING.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

''SEC. 139. CERTAIN GAIN FROM SALE OF LOW-TO-MODERATE INCOME HOUSING.

''(a) IN GENERAL.—Gross income shall not include the gain from the sale of any low-to-moderate income building made during the taxable year and with respect to which the taxpayer is allowed a credit under section 42A.

''(b) LIMITATION.—The amount of gain which may be taken into account under subsection (a) with respect to the sale of a low-to-moderate income building shall not exceed $10,000 for each low-to-moderate income unit in such building.''.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 139 and inserting the following new items:

''Sec. 139. Certain gain from sale of low-to-moderate income housing.

''Sec. 140. Cross references to other Acts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply sales in taxable years beginning after the date of the enactment of this Act.

SEC. 4. EXPANSION OF REHABILITATION CREDIT.

(a) CREDIT APPLICABLE TO BUILDINGS AT LEAST 50 Years Old.—Subparagraph (B) of section 47(c)(1) of the Internal Revenue Code of 1986 (relating to qualified rehabilitated building is amended to read as follows:

''(B) BUILDING MUST BE AT LEAST 50 YEARS OLD.—In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before the date which is at least 50 years before the date such building is placed in service for purposes of the credit under this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

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

S. 1082. A bill to amend the Internal Revenue Code of 1986 to expand the expensing of environmental remediation costs; to the Committee on Finance.

Mr. TORRICELLI. Mr. President, I rise to introduce a bill that is intended to build upon a bi-partisan effort that has spanned over a decade culminating with the passage of S. 350. In August of 1997, this body approved a potentially significant brownfield tax incentive. This tax incentive referred to as the ''expensing'' provision allowed new owners of these contaminated sites to write off clean-up costs from their taxes in the year they are deducted. Despite this stride forward there have been issues pertaining to the provision that have represented barriers to re-development efforts.

The barriers which have thwarted redevelopment efforts have been: (1) the sunset of the bill contributed to uncertainty associated with the time needed to clean-up, obtain financing and re-develop these properties; (2) the exclusion of petroleum related products and pesticides from the definition of ''hazardous substances'' which required that the treatment of these clean up costs as (non-deductable) capital expenditures rather than expenses; and (3) the recapturing as ordinary income, at the time of sale, qualified environmental remediation expenses that have received exemptions.

My bill will eliminate the sunset provision. Eliminating the sunset for this expensing provision would be a major stride forward. Obtaining sufficient financing for brownfield re-development is generally difficult enough without the specter of a looming sunset.

Petroleum products in the form of fuel oil, heating oil or gasoline and pesticides are quite often found at these brownfield sites. Unfortunately, ''hazardous substance'' as it relates to brownfields does not include these particular substances. Therefore, the exclusion of substances commonly found at brownfields increases the costs of brownfield re-development significantly. This bill will expand the definition of hazardous items to include petroleum and pesticides.

In an effort to give true value to brownfields tax incentives, this bill will repeal the recapture provision related to brownfield tax incentives, section 193 e. Currently, any qualified environmental remediation expenditure which has been deducted is subject to recapture as ordinary income when sold or otherwise disposed. Because the tax liability for ordinary income is taxed higher, there is no incentive to redevelop contaminated sites and then sell the property for beneficial use. The repeal of this exclusion will give developers an opportunity to realize their tax incentives if they intend to sell property shortly after redevelopment.

The passage of the expensing provisions and the recently passed S. 350 represent critical steps in enhancing the public/private partnership in brownfield re-development but more must be done. An effective partnership will utilize tax incentives to help attract affordable private investment. Using tax incentives to overcome capital shortages, in the marketplace, to achieve greater public benefits, is a proven formula for success. This can reverse negative trends and start new constructive trends.

By Ms. MIKULSKI (for herself, Mr. BINGAMAN, Mrs. MURRAY, and Mr. INOUYE):

S. 1083. A bill to amend title XVIII of the Social Security Act to exclude clinical social worker services from coverage under the Medicare skilled nursing facility prospective payment system; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise today to introduce the Clinical Social Work Medicare Equity Act of 2001. I am proud to sponsor this legislation that will ensure that clinical social workers can receive Medicare reimbursement for the mental health services they provide in skilled nursing facilities. This bill will give clinical social workers parity with other mental health providers who are exempted from the Medicare Part B Prospective Payment System.

Since my first days in Congress, I have been fighting to protect and strengthen the safety net for our Nation's seniors. Making sure that seniors have access to quality, affordable mental health care is an important part of this fight. I know that millions of seniors are not receiving the mental health services they need. For example, depression effects nearly 6 million seniors, but only one-tenth ever get treated. This is unacceptable. Protecting seniors' access to clinical social workers can help make sure that our most vulnerable citizens get the quality, affordable mental health care they need.

Clinical social workers, much like psychologists and psychiatrists, treat and diagnose mental illnesses. In fact, clinical social workers are the primary mental health providers for many nursing home residents. But unlike other mental health providers, clinical social workers often cannot bill directly for the important services they provide to their patients. This bill will correct this inequity and make sure clinical social workers are paid for the valuable services they provide.

Before the Balanced Budget Act of 1997, clinical social workers billed Medicare Part B directly for mental health services provided in nursing facilities to each patient they served. Under the new Prospective Payment System, services provided by clinical social workers are lumped, or ''bundled,'' along with the services of other health care providers for the purposes of billing and payments. Psychologists and psychiatrists, however, were exempted from this new system and continue to bill Medicare directly. This bill would exempt clinical social workers, like their mental health colleagues, from the Prospective Payment System, and would make sure that clinical social workers are paid for the services they provide to patients in skilled nursing facilities. The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act addressed some of these concerns, but this legislation would remove the final barrier to ensuring that clinical social workers are treated fairly and equitably for the care they provide.

This bill is about more than paperwork and payment procedures. This bill is about equal access to Medicare payments for the equal and important

work done by clinical social workers. And it is about making sure our Nation's most vulnerable citizens have access to quality, affordable mental health care. Without clinical social workers, many nursing home residents may never get the counseling they need when faced with illness or the loss of a loved one. I think we can do better by our Nation's seniors, and I'm fighting to make sure we do.

The Clinical Social Work Medicare Equity Act of 2001 is strongly supported by the National Association of Social Workers and the Clinical Social Work Federation. I look forward to the Senate's support of this important legislation.

By Mr. DURBIN (for himself, Mr. DEWINE, and Mr. FEINGOLD):

S. 1084. A bill to prohibit the importation into the United States of diamonds unless the countries exporting the diamonds have in place a system of controls on rough diamonds, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President, I am introducing a bill today, along with Senator DEWINE and Senator FEINGOLD, to cut off the source of income that is fueling horrendous conflicts in Sierra Leone, Angola, and the Democratic Republic of Congo, the illicit trade in conflict diamonds.

The brutal wars in these African Nations may be thousands of miles away, but the source of the funds that buy the weapons may be as close as your ring finger. Our legislation says, if you can't prove to U.S. Customs agents that your diamonds are legitimate, take your business and your diamonds somewhere else.

I am pleased that the diamond industry and the human rights community are united in their support for this bill. They met many times with our staffs to work out a compromise that everyone is enthusiastically supporting.

We can and must do more than look with horror at the pictures of children with missing hands, arms or legs. We must take a strong stand that says to the world that this nation, which purchases 65 percent of the world's diamonds, will not buy the diamonds that fund rebels and terrorists.

American consumers who purchase diamonds for some happy milestone in their lives, like an engagement, wedding, or anniversary, must be assured that they are buying a diamond from a legitimate, legal, and responsible source.

Setting up a system that would allow American consumers to have confidence that they are buying ''clean'' diamonds would also serve our local jewelers and diamond retailers.

It is hard to imagine today that diamonds could become unfashionable, but if consumers associate diamonds with guerrillas who hack off the arms of children, instead of the joyous life events that are now associated with the gemstones, the diamond industry in our country could suffer a sharp decline.

The jewelers in our local malls and downtown shops do not want to support rebels and terrorists in Africa any more than consumers do. This legislation aims to protect our local merchants, as well as cut off funds to African rebels.

I heard from a jeweler in my hometown of Springfield, Illinois, Bruce Lauer, President of the Illinois Jewelers Association, who wrote:

> The use of diamond profits to fund warfare and atrocities in parts of Africa is abhorrent to all of us. The system created by your bill to bar U.S. imports of conflict stones will allow retail jewelers to be confident that the diamonds and diamond jewelry they sell have no part in the violence and suffering that are prevalent in Sierra Leone, Angola, or other conflict areas.
>
> As the owner of Stout & Lauer Jewelers in Springfield, I know first hand the importance of diamonds to my customers. A diamond is a very special purchase symbolizing love, commitment and joy. It should not be tarnished with doubt. . ..We want to be able to assure our customers unequivocally that the diamonds in our stores come from legitimate sources.

What carnage are these conflicts in Africa causing? The photos of maimed and mutilated men, women, and children in Sierra Leone are the most visible results of the terror tactics by the Revolutionary United Front, RUF. This rebel group has also used murder and rape, pressed children into becoming soldiers, and caused a mass movements of refugees as people flee the terror. The Congressional Research Service has released some conflict-related statistics for the Sierra Leone, Angola, and the Democratic Republic of Congo. I would like to repeat some of them for the Record: Out of a population of more than 5 million people, there are approximately 490,000 refugees from Sierra Leone in neighboring countries and anywhere from 500,000 to 1.3 million internally displaced people. Estimates of the numbers of people who have died in the conflict range from 20,000 to 50,000. More than 5,000 children have fought in direct combat roles, with 5,000 more used in supporting roles. There are no figures on how many people lost limbs or were otherwise mutilated, but World Vision reports that there are 2,000 amputees in just one camp in Freetown.

In the long conflicts in Angola and Democratic Republic of Congo, DRC, diamonds have been a contributing factor. The United Nations recently issued a report showing that the conflict in the DRC has become increasingly resource driven, as parties illegally exploit diamonds and other mineral wealth, including tantilite, the mineral now in high demands for cell phones and other electronic devices.

Last year the United States worked with the international community and the diamond industry to stem the flow of conflict diamonds. The United Nations has taken action to ban the conflict diamond trade and recommended that a ''simple and workable international certification scheme for rough diamonds be created.''

The United States also participated in May 2000 in the Technical Forum on Diamonds, which became known as the ''Kimberley Process'' after the city in South Africa where the group met, along with representatives from other countries, the diamond industry, and non-governmental organization. The group recommended the establishment of an international export regime like the one set up in the bill I introduce today. However, since that time negotiations on setting up such a system have slowed. I believe that this bill will help spur action to complete negotiations and set up a system to track and certify diamond exports.

The bill that I am introducing today with Senator DEWINE and Senator FEINGOLD is similar to H.R. 918, introduced by Congressman TONY HALL and Congressman FRANK WOLF in the House. But our bill also incorporates some changes that represent a compromise that the diamond industry and the human rights community were able to come together to support. The bill was also written to be compliant with US obligations in the World Trade Organization, WTO.

Among other provisions, the bill does the following: The bill requires diamond imports—including rough, polished, and jewelry—to come from a ''clean stream'' and spells out the details of this system (which may be superceded by an international agreement if the United States is a party to it). Implementation of any system shall be monitored by US agencies and a presidential advisory commission, which include human rights advocates and representatives of the diamond industry.

Violators will be subject to civil and criminal penalties, including confiscation of contraband. Significant violators' US assets may be blocked. Proceeds from penalties and the sale of diamonds seized as contraband shall be used to help war victims, through humanitarian relief and micro-credit development projects.

Diamond-sector projects in countries that fail to adopt a system of controls shall not be eligible for loan guarantees or other assistance of the US Export-Import Bank or OPIC.

The bill provides waiver authority to the President under limited circumstances, and spells out the process for determining them under what limited conditions, the President may delay applicability of the law to a ''cooperating'' country. In issuing such a waiver, the President must report to Congress on that country's progress toward establishing a system of controls and concluding an international agreement. Criteria for determining whether a country is cooperating must be developed with public input.

The bill requires no action by the Treasury Secretary or Customs Service that would contradict the United States' obligations to the World Trade

Organization, as it finds in a dispute proceeding. If another country successfully challenges the United States at the WTO, Congress intends for the United States to bring its actions into conformity with its WTO obligations.

Both the President and the General Accounting Office are to report as to the system's effectiveness and on which countries are implementing it.

The bill encourages the diamond industry to contribute to financially-strapped African countries that may have difficulty bearing the costs of setting up a system of controls, and authorizes $5 million of assistance from the United States to do the same.

I ask my colleagues to join with us in cosponsoring the bill we introduce today and take a positive step in ending the bloody violence fueled by the sale of conflict diamonds.

By Mr. WELLSTONE:

S. 1085. A bill to provide for the revitalization of Olympic sports in the United States; to the Committee on Commerce, Science, and Transportation.

Mr. WELLSTONE. Mr. President, the foremost responsibility given to the United States Olympic Committee when it was created by Congress is to obtain for this country ''the most competent representation possible in each event of the Olympic Games.'' However, in too many sports, the USOC is decidedly disadvantaged in achieving that goal. A key reason for the USOC's difficulty is that our colleges and universities are eliminating many of their teams in those sports each year. Colleges and universities have been the traditional route to participation in the Olympic Games in these non-revenue sports, but many of America's prospective participants in the Olympic Games are having opportunities blocked as these programs disappear.

As a former college wrestler and someone who continues to follow that sport closely at the high school and college levels, I have noticed as wrestling programs have been discontinued by colleges and universities at a high rate in recent years. Too often, this occurs through a process that leaves student-athletes with few options if they want to continue wrestling at another institution. As a result of my concerns about wrestling, the sport I know best, I worked with now-Speaker of the House DENNIS HASTERT to include in the 1998 reauthorization of the Higher Education Act a study by the General Accounting Office on patterns in the addition and discontinuation of athletic teams at 4-year colleges and universities. The study investigated the forces that lead to team additions and discontinuations, as well as the processes through which discontinuations have occurred. The report from that GAO study was recently released. It both reaffirms what Speaker HASTERT and I already knew about the state of college-level wrestling. And it demonstrates that wrestling, where 40 percent of teams have been discontinued during the past two decades, is not alone. A number of men's and women's sports have experienced a significant net decline in the number of programs during the same period. There has been a 53-percent decline in the number of women's gymnastics teams, a 10-percent reduction in the number of women's field hockey teams and a 68-percent decline in the number of men's gymnastics programs. Most pertinent is the following fact: 16 of the sports that have lost teams during that period, which is nearly all the sports that have lost teams, are Olympic sports. In light of the Congressional directive contained in USOC's authorizing legislation, a federal response is warranted.

Guided by the findings of the recent GAO report, the bill that I introduce today, the Olympic Sports Revitalization Act, seeks to counteract the problems faced by these 16 sports, plus three emerging women's sports. The first group of 16 sports consists of the following: women's gymnastics, women's and men's fencing, women's field hockey, women's and men's archery, women's badminton, men's wrestling, men's tennis, men's gymnastics, men's rifle/shooting men's outdoor track, men's swimming, men's skiing, men's ice hockey, and men's water polo. Also covered are the three emerging women's sports: synchronized swimming, team handball, and equestrian. The bill would assist in developing a competitive American Olympics program that spans the spectrum of high- and low-profile sports. Because there is no single, shared reason that each of these sports has faced difficulty in recent years, the bill has four sections, each of which seeks to address an obstacle to their vitality in the United States.

First, the GAO report indicates that in some cases, declining interest in the sports is a key factor in decisions by colleges and universities to eliminate their programs. We know that those who will go on to become Olympians realize their talent and passion for their sport at any early age which means they need to become interested at an early age. Therefore, this bill establishes a grant program to assist local community-based athletic programs in providing opportunities for youngsters to participate in these sports. The bill authorizes funds for the USOC itself and the national governing bodies in the sports covered by the Act to award grants to community athletic organizations to initiate and expand youth sporting opportunities. In particular, it encourages a focus on providing such opportunities in communities where the sport has not traditionally been available as an option for young persons so that the pool of participants in the sport will expand.

Of course, relatively few of the young people that will participant in these programs will ever become Olympians. But aside from building interest in otherwise declining sports, these programs will provide additional benefits for young men and women. My colleague from Alaska, Senator STEVENS, for whom the existing Olympic and Amateur Sport Act is rightly named, has an ongoing commitment to enhancing the physical fitness of Americans. This program offers fitness outlets that can put young people on a path toward lifelong commitment to exercise and all its physical and mental health benefits.

As someone who was given the opportunity to develop personally through the challenge of wrestling, I also know how important involvement in athletics is at an early age in building character. Sports help youngsters develop some of the most important skills for success in life: the ability to think strategically, the courage to overcome fears, and the tact of being a good winner and, yes, a good loser.

I encourage my colleagues to learn more about two existing community sports programs that are exactly the type of locally-controlled endeavors that this grant program is meant to promote. Peter Westbrook grew up in the projects of Newark, New Jersey. He was lucky enough to be introduced to fencing at an early age and by focusing on that sport, he escaped the desperation of the environment in which he came of age. Peter pursued the sport as he became older and he went on to win the Bronze Medal in Men's Sabre at the 1984 Olympics in Los Angeles. Seven years later, he began a non-profit program in New York City dedicated to helping kids in the five boroughs of New York gain access to the benefits that he has as a youngster in fencing. Over the past decade, hundreds of inner-city kids have participated in the program.

Like the Peter Westbrook Foundation, the ''Beat the Streets'' program begun in 1999 in inner-city Chicago is a model for the grant program to be established by this legislation. ''Beat the Streets,'' a program with which Speaker HASTERT has been involved, focuses on mentoring youngsters who typically would not have access to wrestling training. The youngsters are coached in a number of wrestling techniques, conditioning and nutrition. The program also focuses on developing social and intellectual skills that go beyond the mat. ''Beat the Streets'' has grown throughout Chicago and, working in coalition with the YMCA, its advisory board recently began planning the expansion of that program to other cities around the country. I hope that this legislation can plan a role in the expansion of such an outstanding program.

As I mentioned earlier, three women's emerging sports, that is, Olympic sports that have not traditionally been an option for women in this country—are also covered by the pertinent sections of this Act. That makes sense because the fact that they are not fully established sports means that the USOC faces a particular challenge in developing the most competitive team possible in those sports.

The second section of the Olympic Sports Revitalization Act more direct focuses on ensuring participation in the covered sports during college. It does so by providing funding for scholarships in those sports. College and university athletic programs that have discontinued the non-revenue sports covered by this Act also cite budgetary strains as a frequent reason for those decisions. While the GAO report cites numerous cased where colleagues and unikversitues have successfully maintained existing sports while adding new sports to meet the interests and needs of women athlete, it is important to realize that colleges and universities do face real financial contraints. This portion of the Act would help protect existing non-revenue sports that might otherwise be eliminated. Through this section's provision, the USOC would be authorized to provide 4-year grants of between $25,000 and $50,000 annually to college athletic programs to provide scholarship to student-athletes participating in the sports covered by the Act. At any one school, a limit of three covered program could be grant recipients at any one time. Schools would be required to maintain the sport to continue to receive the grant money. This Olympic Revitalization Scholarship grant program will reinforce the already existing Bart Stupak Olympic Scholarship Program, also in the Higher Education Act, which provides financial assistance to athletes who are actually in training for the Olympic Games.

The bill also seeks to ensure that, as they decide where they will attend college, prospective student-athletes will be able accurately to gauge the relative health of the sports programs at different schools they may be considering. Present law requires that all 4-year colleges and universities with athletic programs report to the Department of Education the number of participants and coaches in all sports, as well as further information regarding funding for their teams. This data, particularly when examined over time, gives an excellent picture of the health of the sport at that college. It also provides insight into the continued vitality of the program during the period that the prospective student-athlete would hope to participate in the sport. The problem is that, while the Department of Education has collected this required data, it is not readily available to the general public. The Olympic Sports Revitalization Act would authorize funds and require that the data over a several year period be posted on the Internet in a usable format so that the student-athletes and those involved in their college decision can have easy access to that information.

Finally, one of the most troubling findings in the GAO report is that student-athletes are, quite often, given no forewarning that their sport is being discontinued by the athletic program. They also have no mechanism by which to appeal that decision. Generally, such decisions by athletic programs go into effect immediately. In addition to defying fairness, this reality means that student-athletes often have their college athletic careers disrupted in a manner that makes it difficult to stay on track for post-college amateur competition. The data in the GAO report indicates that the stories I have heard about the termination of wrestling programs in my home State of Minnesota and around the country are part of a pattern in other similarly situated sports. Therefore, the fourth section of the bill requires that colleges and universities provide written justification for a decision to discontinue a sport to team members. It also requires that a process for appealing the team's termination be established.

We have a responsibility to field ''the most competent representation'' possible in the Olympic games. Just as important, we should do all we can to promote the continued vitality of a set of sports that have proud traditions I our country and that have provided health and character-development benefits for thousands of participants through the years. To quote Pat Zilverberg, a constant guardian of the sport of wrestling in my home state, from his letter supporting this legislation: ''The opportunities to develop athletes and, subsequently, good citizens, are at risk.'' This legislation would play a key role in revitalizing these sports and I strongly encourage its adoption.

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

S. 1086. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf in the Mid-Atlantic and North Atlantic planning areas; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today, along with Senator TORRICELLI, I am introducing legislation, the Clean Ocean and Safe Tourism, COAST, Anti-Drilling Act, to ban oil and gas drilling off the Mid-Atlantic and Northern Atlantic coast.

The people of New Jersey, and other residents of States along the Atlantic Coast, do not want oil or gas rigs anywhere near their treasured beaches and fishing grounds. Such drilling poses serious threats not to our environment, but to our economy, which depends heavily on tourism along our shore.

Until recently, there was no reason to suspect that drilling was even a remote possibility. Since 1982, a statutory moratorium on leasing activities in most Outer Continental Shelf, OCS, areas has been included annually in Interior Appropriations acts. In addition, President George H.W. Bush declared a leasing moratorium on many OCS areas on June 26, 1990 under section 12 of the OCS Lands Act. On June 12, 1998, President Clinton used the same authority to issue a memorandum to the Secretary of the Interior that extended the moratorium through 2012 and included additional OCS areas.

Given the long-standing consensus against drilling in these areas, I was deeply disturbed to discover that on May 31, 2001, the Minerals Management Service released a request for proposals, RFP, to conduct a study of the environmental impacts of drilling in the Mid- and North-Atlantic. The RFP noted that ''there are areas with some reservoir potential, for example off the coast of New Jersey.'' In addition, the RFP explained that the study would be conducted ''in anticipation of managing the exploitation of potential and proven reserves.''

I believe that the RFP was not only inappropriate, but probably illegal, and I was pleased when it was rescinded yesterday. However, I remain concerned about the Administration's policy with respect to offshore drilling. Although some Administration officials have indicated that they support the existing moratoria on offshore drilling, the President's energy plan and this recent proposed study call the Administration's position into question. I have asked the President to clarify his position on this issue, and I hope that he will use his authority to endorse the existing moratoria.

In my view, however, it is time for Congress to act to resolve this question once and for all. That is why I am introducing the COAST Anti-Drilling Act. This bill would permanently ban drilling for oil, gas and other minerals in the Mid- and North-Atlantic.

I look forward to working with my colleagues to enact this important legislation. Doing so would ensure that the people of New Jersey and neighboring States that they need not fear the specter of oil rigs off their beaches.

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. 1086

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 ''Clean Ocean and Safe Tourism Anti-Drilling Act'' or the ''COAST Anti-Drilling Act''.

SEC. 2. PROHIBITION OF OIL AND GAS LEASING IN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(p) PROHIBITION OF OIL AND GAS LEASING IN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—Notwithstanding any other provision of this section or any other law, the Secretary of the Interior shall not issue a lease for the exploration, development, or production of oil, natural gas, or any other mineral in—

''(1) the Mid-Atlantic planning area; or

''(2) the North Atlantic planning area.''.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 52—EXPRESSING THE SENSE OF CONGRESS THAT REDUCING CRIME IN PUBLIC HOUSING SHOULD BE A PRIORITY, AND THAT THE SUCCESSFUL PUBLIC HOUSING DRUG ELIMINATION PROGRAM SHOULD BE FULLY FUNDED

Mr. CORZINE (for himself, Mr. SARBANES, Mr. REED, Mr. CARPER, Mr. SCHUMER, Ms. STABENOW, Mr. DODD, Mr. JOHNSON, Mr. BAYH, Mr. ROCKEFELLER, Ms. COLLINS, Mrs. CLINTON, Ms. SNOWE, Mr. CLELAND, Ms. CANTWELL, Mr. WELLSTONE, Mr. FEINGOLD, Mr. TORRICELLI, and Mr. KERRY) submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 52

Whereas while various public housing developments suffer from serious crime problems, many have made significant progress in reducing crime through initiatives funded by the Public Housing Drug Elimination Program (PHDEP);

Whereas PHDEP was first established in 1988 under former President George Bush and the former Secretary of the Department of Housing and Urban Development, Jack Kemp, and has enjoyed strong bipartisan support since its inception;

Whereas PHDEP funds a wide variety of anticrime initiatives, that include—

(1) the employment of security personnel and investigators;

(2) the reimbursement of local law enforcement agencies for additional security;

(3) drug education and prevention, intervention, and treatment programs;

(4) voluntary resident patrols; and

(5) physical improvements designed to enhance security, including fences and cameras;

Whereas PHDEP has successfully enabled housing authorities to work cooperatively with residents, local officials, police departments, community groups, Boys and Girls Clubs, drug counseling centers, and other community-based organizations to develop locally-supported anticrime initiatives;

Whereas the Internet web site of the Department of Housing and Urban Development has stated that the program's ''success is rooted in the fact that the people respond better and become more involved in something they have helped to build'';

Whereas in addition to providing direct funding for anticrime initiatives, PHDEP has helped housing authorities leverage funding from other sources that might otherwise be unavailable, such as funding from local banks, Rotary and Kiwanis Clubs, and private foundations;

Whereas a portion of funding allocated to the PHDEP is also used to reduce crime in privately-owned, publicly assisted housing, and assisted housing on Indian reservations, which also can suffer from serious crime problems;

Whereas the Internet web site of the Department of Housing and Urban Development has pointed out that ''in several of the Nation's largest public housing authorities—largest in terms of unit size—the rate of crime has fallen since the mid-1990's, even though the crime rate in the respective surrounding communities increased. And we know that crime levels in many housing authorities are dropping, in both absolute and percentage terms. These are merely the successes that we can measure. There are many more that are simply immeasurable.'';

Whereas Congress has recognized the success of the PHDEP by increasing program funding from $8,200,000 in fiscal year 1989 to $310,000,000 in fiscal year 2001;

Whereas evicting residents who engage in unlawful activity can help reduce crime, but much of the crime in public housing is perpetrated by nonresidents, and evictions must be supplemented by the more comprehensive anticrime approach supported by the PHDEP;

Whereas public housing authorities could use operating subsidies to fund some anticrime initiatives under applicable law, but those subsidies are based on a formula that does not account for PHDEP eligible activities and are inadequate to fund most of the anticrime initiatives supported by the program, and PHDEP has the added advantage of requiring public housing authorities to develop and implement anticrime plans with the support and participation of residents and local communities, which has proved critical in ensuring the effectiveness of such plans;

Whereas while, as with any program of its size, there have been reports of isolated problems, PHDEP generally has been well run and free of the widespread abuses that have plagued other housing programs in the past, in part because of the broad participation of residents and local communities, and because the program has required housing authorities to provide comprehensive plans before receiving funds, and complete reports on their progress;

Whereas during the process leading to his confirmation, the Secretary of the Department of Housing and Urban Development, Mel Martinez, stated in a written response to a question posed by Senator Jon S. Corzine that, ''HUD's Public Housing Drug Elimination Program, PHDEP, supports a wide variety of efforts by public and Indian housing authorities to reduce or eliminate drug-related crime in public housing developments. Based on this core purpose, I certainly support the program.'';

Whereas PHDEP is critical not only to millions of public and assisted housing residents, most of whom are hard working, law abiding citizens, but also to surrounding communities, residents of which also suffer if neighboring housing developments are plagued with high rates of crime; and

Whereas continued funding of PHDEP would demonstrate that the Nation is serious about maintaining its commitment to reducing the problem of crime in public housing: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) reducing crime in public housing should be a priority; and

(2) the successful Public Housing Drug Elimination Program should be fully funded.

SENATE CONCURRENT RESOLUTION 53—ENCOURAGING THE DEVELOPMENT OF STRATEGIES TO REDUCE HUNGER AND POVERTY, AND TO PROMOTE FREE MARKET ECONOMIES AND DEMOCRATIC INSTITUTIONS, IN SUB-SAHARAN AFRICA

Mr. HAGEL (for himself, Mr. LEAHY, and Mr. LEVIN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 53

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This concurrent resolution may be cited as the ''Hunger to Harvest: Decade of Support for Sub-Saharan Africa Resolution''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Despite some progress in recent years, sub-Saharan Africa enters the new millennium with many of the world's poorest countries and is the one region of the world where hunger is both pervasive and increasing.

(2) Thirty-three of the world's 41 poorest debtor countries are in sub-Saharan Africa and an estimated 291,000,000 people, nearly one-half of sub-Saharan Africa's total population, currently live in extreme poverty on less than $1 a day.

(3) One in three people in sub-Saharan Africa is chronically undernourished, double the number of three decades ago. One child out of seven dies before the age of five, and one-half of these deaths are due to malnutrition.

(4) Sub-Saharan Africa is the region in the world most affected by infectious disease, accounting for one-half of the deaths worldwide from HIV/AIDS, tuberculosis, malaria, cholera, and several other diseases.

(5) Sub-Saharan Africa is home to 70 percent of adults, and 80 percent of children, living with the HIV virus, and 75 percent of the people worldwide who have died of AIDS lived in Africa.

(6) The HIV/AIDS pandemic has erased many of the development gains of the past generation in sub-Saharan Africa and now threatens to undermine economic and social progress for the next generation, with life expectancy in parts of sub-Saharan Africa having already decreased by 10–20 years as a result of AIDS.

(7) Despite these immense challenges, the number of sub-Saharan African countries that are moving toward open economies and more accountable governments has increased, and these countries are beginning to achieve local solutions to their common problems.

(8) To make lasting improvements in the lives of their people, sub-Saharan Africa governments need support as they act to solve conflicts, make critical investments in human capacity and infrastructure, combat corruption, reform their economies, stimulate trade and equitable economic growth, and build democracy.

(9) Despite sub-Saharan Africa's enormous development challenges, United States companies hold approximately $12,800,000,000 in investments in sub-Saharan Africa, greater than United States investments in either the Middle East or Eastern Europe, and total United States trade with sub-Saharan Africa currently exceeds that with all of the independent states of the former Soviet Union, including the Russian Federation. This economic relationship could be put at risk unless additional public and private resources are provided to combat poverty and promote equitable economic growth in sub-Saharan Africa.

(10) Bread for the World Institute calculates that the goal of reducing world hunger by one-half by 2015 is achievable through an increase of $4,000,000,000 in annual funding from all donors for poverty-focused development. If the United States were to shoulder one-fourth of this aid burden—approximately $1,000,000,000 a year—the cost to each United States citizen would be one penny per day.