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Senate

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1302. A bill to authorize the payment of a gratuity to members of the Armed Forces and civilian employees of the United States who performed slave labor for Japan during World War II, or the surviving spouses of such members, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BINGAMAN. Madam President, during the last Congress, I introduced the Bataan-Corregidor Veterans Compensation Act to recognize American veterans who served at Bataan and Corregidor during World War II and were captured, held as prisoners of war, and forced to perform slave labor to support the Japanese war effort. That bill helped bring attention to the plight of Americans captured and enslaved in the Pacific theater at a time when our Government undertook important efforts on behalf of enslaved victims of Nazi oppression in Europe. I believe that our government should also take action on behalf of those who were enslaved in the Pacific theater. Since the waning days of those heroes are quickly passing, the time to take action on this important matter is now.

Today I am introducing an updated version of last year's bill, now entitled the World War II Pacific Theater Veterans Compensation Act, to acknowledge the contributions of all ex-prisoners of war in the Pacific who were forced into slave labor by the Japanese. The bill would award a gratuity of $20,000 to each surviving veteran, government, or government contractor employee who was imprisoned by the Japanese during World War II and forced to perform slave labor to support Japan's war effort. The bill would also extend that gratuity to surviving spouses of such veterans or employees.

I believe that this bill is both necessary and appropriate, particularly as those Americans who sacrificed so much approach their final years. Why is it necessary? First, because Americans who were enslaved by Japan have never been adequately compensated for the excruciating sacrifices they made while in Japanese military and company prisons and labor camps. In the War Claims Acts of 1948 and 1952, our Government paid former U.S. prisoners of war $1.00 per day for ''missed meals'' during their captivity, and later, $1.50 per day for ''forced labor, pain, and suffering.'' Even those paltry compensations were not widely known about or received by all veterans who qualified for them. Second, this bill is necessary since ongoing efforts to obtain appropriate compensation from the government of Japan, or from Japanese companies through litigation, have been unsuccessful and are not likely to succeed in a timely enough manner to compensate surviving veterans or others who would be eligible.

My colleagues might ask, ''Why is this bill appropriate?'' If enacted into law, it would have our own government recognize the vital military contributions made by members of the Armed Forces and civilians employed by the government in the Pacific theater, and would compensate those heroes for the many sacrifices they were forced to make at the hands of their Japanese captors. From December 1941 to April 1942, for example, American military forces stationed in the Philippines fought valiantly for almost six months against overwhelming Japanese military forces on the Bataan peninsula. As a result of that prolonged conflict, U.S. forces prevented Japan from achieving its strategic objective of capturing Australia and thereby dooming Allied hopes in the Pacific theater from the outset of the war.

Once captured by the Japanese, American prisoners of war in the Philippines endured the infamous ''Death March'' during which approximately 730 Americans died to the notorious Japanese prison camp north of Manila. Of the survivors of the March, more than 5,000 more Americans perished during the first six months of captivity. The Japanese forced many of those who survived captivity to embark on ''hell ships''—unmarked merchant ships—to be transported to Japan to work as slave laborers in company-owned mines, shipyards, and factories. How tragic and cruel it was that many of our own men perished in those unmarked vessels, victims of attacks by American military aircraft and submarines who unknowingly caused their demise! The stories of other American military and civilian employees captured by the Japanese at Wake Island, Java, Manchuria, Taiwan, and other locations in the Pacific and enslaved to support the war effort are equally compelling.

This bill is also appropriate because it reflects international precedents by Allied nations to honor their enslaved veterans in the way which I propose in this bill. Allied governments, including Canada, New Zealand, the Netherlands, and the United Kingdom have authorized compensation gratuities. In 1998, the Canadian Government authorized the payment of $15,600 (Canadian dollars) to veterans who were captured in Hong Kong and enslaved by the Japanese. Last October, Prime Minister Tony Blair announced a multi-million pound compensation fund for former enslaved Japanese prisoners of war in recognition of their heroic experiences. Given those important precedents by our Allies, is it no less appropriate for our own nation to compensate those who gave so much to defend and preserve our freedom? Surely, the denial of personal freedom; the severe physical punishment; the lifetime of health problems many suffered as a result of prolonged malnutrition and physical beatings—as well as the impact of those experiences on family and loved ones—merit the recognition that I propose in this legislation.

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I believe the Congress should act as soon as possible to enact this legislation into law. These brave heroes are leaving us at an increasing rate each year while the court system struggles to resolve the compensation claims of worthy American heroes. The time to act is now, else justice and honor may not ever be served. I thank Senator HATCH for agreeing to cosponsor this legislation, and I urge my fellow Senators to support it.

By Mr. KERRY:

S. 1303. A bill to amend title XVIII of the Social Security Act to provide for payment under the medicare program for more frequent hemodialysis treatments; to the Committee on Finance.

Mr. KERRY. Madam President, I am pleased to introduce legislation to improve the quality of life for the more than 250,000 Americans with End Stage Renal Disease, ESRD. The Kidney Patient Daily Dialysis Quality Act of 2001 will update the Medicare program to reflect the current state of medical science on the efficacy of hemodialysis by eliminating the limitation on the number of sessions now covered by Medicare. Specifically, this bill move Medicare beyond its conventional coverage of three hemodialysis sessions per week to provide coverage of more frequent hemodialysis, as defined by at least five times a week at a dialysis facility or in the home, if determined appropriate by a patient's physician.

ESRD is irreversible kidney failure. Without treatment or transplantation, death invariably results. Unfortunately, the number of Americans with ESRD is growing at a rate of 6 percent to 7 percent per year, and this population is projected to double over the next ten years. Due to the shortage of organs available for transplantation, almost 90 percent of patients with ESRD received hemodialysis treatments three times per week. This has been standard policy since 1972, when Congress created the Medicare End Stage Renal Disease Program. This program has been enormously successful in saving hundreds of thousands of lives, and increasing the life expectancy for hundreds of thousands of others with this terrible disease. However, the program now needs to be modernized.

Today, scientific and medical evidence shows that more frequent hemodialysis enhances the health of patients with ESRD by improving toleration of dialysis, high blood pressure and anemia control, cardiovascular status, nutrition, quality of sleep, mental clarity, and increasing energy and strength. In addition to these improvements in patient health, and subsequent reductions in required medications and hospitalizations, daily hemodialysis can significantly reduce costs to the Medicare program. According to a Project Hope study, more frequent hemodialysis could save the Medicare program between $120 million and $260 million per year.

The Kidney Patient Daily Dialysis Quality Act of 2001 stands to improve the quality of life for hundreds of thousands of Americans suffering from kidney failure. Scientific evidence supports the promise of this legislation and modern technology exists to provide it, it is time to deliver.

By Mr. KERRY:

S. 1304. A bill to amend title XVII of the Social Security Act to provide for coverage under the medicare program of oral drugs to reduce serum phosphate levels in dialysis patients with end-stage renal disease; to the Committee on Finance.

Mr. KERRY. Madam President, I am pleased to introduce legislation to improve the quality of life for the more than 250,000 Americans with End Stage Renal Disease, ESRD. My legislation will update the Medicare program to provide patients with better treatment for ESRD by providing coverage of oral prescription medications that reduce the serum phosphate levels in dialysis patients.

Patients with ESRD cannot eliminate dietary phosphorus and, without undergoing a kidney transplant, risk developing a condition known as hyperphosphatemia. This condition, and the hospitalization that accompanies it, can be prevented through the use of phosphate binding drugs, which are taken orally with meals and bind to dietary phosphorus, thereby reducing absorption in the body. Making phosphate binders available to Medicare-eligible ESRD patients makes both medical and economical sense. Not only do these medications improve the quality of life for patients with kidney failure, but they stand to reduce overall Medicare costs associated with treating patients who develop hyperphosphatemia. A recent scientific study by the U.S. Renal Data System found that the use of one such drug could save Medicare, on average, $17,328 per patient on an annual basis.

Under current law, ESRD patients are prohibited from enrolling in Medicare+Choice plans. Many ESRD patients are also ineligible for ''Medigap'' coverage as 63 percent of the patients are under the age of 65. Thus, ESRD patients are denied access to the only existing mechanisms under which Medicare enrollees can obtain prescription drug coverage.

ESRD patients are among the sickest, poorest, most likely to be disabled, and most frequently hospitalized of all Medicare beneficiaries. In light of the shortage of organs available for transplant, it is imperative that we do all we can to supplement traditional hemodialysis treatment and improve the quality of life for those patients with kidney disease. Scientific evidence supports the promise of phosphate binding drugs to enhance the health of Americans with ESRD, and it is time that every patient realize that promise.

By Mr. GRAHAM (for himself and Mr. GRASSLEY):

S. 1305. A bill to amend the Internal Revenue Code of 1986 to clarify the status of professional employer organizations and to promote and protect the interests of professional employer organizations, their customers, and workers; to the Committee on Finance.

Mr. GRAHAM. Madam President, today, together with my Finance Committee colleague, Senator GRASSLEY, I am introducing the Professional Employer Organization Workers Benefits Act of 2001. Companion legislation is being introduced in the House by Representatives CARDIN and PORTMAN. This legislation expands retirement and health benefits for workers at small and medium-sized businesses in this country.

This bill is a narrower version of a bill that I sponsored in the last Congress, S. 2979, the Graham-Mack bill. Our new bill incorporates several improvements recommended by interested parties over the course of the past several years. Most significantly, the scope of this bill has been limited to address technical issues that were raised by the Treasury Department, Internal Revenue Service, and the Labor Department. I think it is fair to say that a much improved version of this proposal has emerged, one that ensures that the legislation's objective of expanding retirement and health coverage is achieved, while also ensuring that other important Federal policies are not affected. I am very pleased that, the Commissioner of the IRS, in a letter sent to one of the House companion bill sponsors recently, has indicated his interest in seeing this legislation enacted in a timely fashion.

In brief, this bill would permit certified professional employer organizations, PEOs, to assist small and medium-sized businesses in complying with the multiple responsibilities of being an employer. It does this by permitting the PEOs to accept responsibility for employment taxes and provide employee benefits to workers in small businesses. For many of these workers, the PEO's pension, health and other benefits represent benefits that the worker would not have received otherwise because they are too costly for the small business to provide on its own. PEOs provide the expertise and the economies of scale necessary to provide health and retirement benefits in an affordable and efficient manner.

Congress must take every opportunity to encourage businesses to provide retirement and health benefits to their employees. PEOs offer one creative way to bridge the gap between what workers need and what small businesses can afford to provide them. This legislation clarifies the tax law to make it clear that PEOs meeting certain standards will be able to offer those needed employee benefits and collect Federal employment taxes for their business customers.

In addition, I would like to make clear what this bill does not do. Unlike certain other bills, this bill applies only to PEOs, i.e., arrangements where

the PEO accepts responsibility for all or almost all of the workers at a worksite. It does not have anything to do with temporary staffing agencies or similar arrangements. Further, this bill by its terms applies only to the two areas of the tax law I have mentioned, employment tax and employee benefit laws. It does not affect any other law, nor does it affect the determination of who is the employer for tax law or any other purpose. The bill specifically states that it creates no inferences with respect to those issues.

I am hopeful that, with this narrower focus, this legislation can be considered quickly on its own merits, without getting bogged down in the disputes over the so-called contingent workforce and independent contractor issues, issues that are not addressed in this bill. While those are important issues that Congress may want to examine, we should not allow those complex issues to delay resolution of the unrelated PEO issues addressed by this bill. We believe that the changes made by our legislation will help expand retirement and health plan coverage both in the short-term and the longer run.

I look forward to working with Senator GRASSLEY and my other colleagues on the Finance Committee and the Administration in moving this bill during this Congress so that we can begin to address the difficulties faced by small businesses and their workers in obtaining benefits and meeting the other challenges of operating in an increasingly globalized economy.

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

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

S. 1305

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 ''Professional Employer Organization Workers Benefits Act of 2001''.

SEC. 2. NO INFERENCE.

Nothing contained in this Act or the amendments made by this Act shall be construed to create any inference with respect to the determination of who is an employee or employer—

(1) for Federal tax purposes (other than the purposes set forth in the amendments made by section 3), or

(2) for purposes of any other provision of law.

SEC. 3. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

(a) EMPLOYMENT TAXES.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end the following new section:

''SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

''(a) GENERAL RULES.—For purposes of the taxes imposed by this subtitle—

''(1) a certified professional employer organization shall be treated as the employer (and no other person shall be treated as the employer) of any work site employee performing services for any customer of such organization, but only with respect to remuneration remitted by such organization to such work site employee, and

''(2) the exemptions and exclusions which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

''(b) SUCCESSOR EMPLOYER STATUS.—For purposes of sections 3121(a) and 3306(b)(1)—

''(1) a certified professional employer organization entering into a service contract with a customer with respect to a work site employee shall be treated as a successor employer and the customer shall be treated as a predecessor employer, and

''(2) a customer whose service contract with a certified professional employer organization is terminated with respect to a work site employee shall be treated as a successor employer and the certified professional employer organization shall be treated as a predecessor employer.

''(c) LIABILITY WITH RESPECT TO INDIVIDUALS PURPORTED TO BE WORK SITE EMPLOYEES.—

''(1) GENERAL RULES.—Solely for purposes of its liability for the taxes imposed by this subtitle—

''(A) the certified professional employer organization shall be treated as the employer of any individual (other than a work site employee or a person described in subsection (e)) who is performing services covered by a contract meeting the requirements of section 7705(e)(2)(F), but only with respect to remuneration remitted by such organization to such individual, and

''(B) the exemptions and exclusions which would (but for subparagraph (A)) apply shall apply with respect to such taxes imposed on such remuneration.

''(d) SPECIAL RULE FOR RELATED PARTY.—Subsection (a) shall not apply in the case of a customer which bears a relationship to a certified professional employer organization described in section 267(b) or 707(b). For purposes of the preceding sentence, such sections shall be applied by substituting '10 percent' for '50 percent'.

''(e) SPECIAL RULE FOR CERTAIN INDIVIDUALS.—For purposes of the taxes imposed under this subtitle, an individual with net earnings from self-employment derived from the customer's trade or business (including a partner in a partnership that is a customer), is not a work site employee with respect to remuneration paid by a certified professional employer organization.

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

(b) EMPLOYEE BENEFITS.—Section 414 of such Code (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(w) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—

''(1) PLANS MAINTAINED BY CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—

''(A) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a plan or program established or maintained by a certified professional employer organization to provide employee benefits to work site employees, then, for purposes of applying the provisions of this title applicable to such benefits—

''(i) such plan shall be treated as a single employer plan established and maintained by the organization,

''(ii) the organization shall be treated as the employer of the work site employees eligible to participate in the plan, and

''(iii) the portion of such plan covering work site employees shall not be taken into account in applying such provisions to the remaining portion of such plan or to any other plan established or maintained by the certified professional employer organization providing employee benefits (other than to work site employees).

''(B) SPECIAL EXCEPTIONS IN APPLYING RULES TO BENEFITS.—

''(i) IN GENERAL.—In applying any requirement listed in clause (iii) to a plan or program established by the certified professional employer organization—

''(I) the portion of the plan established by the certified professional employer organization which covers work site employees performing services for a customer shall be treated as a separate plan of the customer (including for purposes of any disqualification or correction),

''(II) the customer shall be treated as establishing and maintaining the plan, as the employer of such employees, and as having paid any compensation remitted by the certified professional employer organization to such employees under the service contract entered into under section 7705, and

''(III) a controlled group that includes a certified professional employer organization shall not include in the controlled group any work site employees performing services for a customer.

For purposes of subclause (III), all persons treated as a single employer under subsections (b), (c), (m), and (o) shall be treated as members of the same controlled group.

''(ii) SELF-EMPLOYED INDIVIDUALS.—A work site employee who would be treated as a self-employed individual (as defined in section 401(c)(1)), a disqualified person (as defined in section 4975(e)(2)), a 2-percent shareholder (as defined in section 1372(b)(2), or a shareholder-employee (as defined in section 4975(f)(6)(C)), but for the relationship with the certified professional employer organization, shall be treated as a self-employed individual, disqualified person, a 2-percent shareholder, or shareholder-employee for purposes of rules applicable to employee benefit plans maintained by such certified professional employer organization.

''(iii) LISTED REQUIREMENTS.—The requirements listed in this clause are:

''(I) NONDISCRIMINATION AND QUALIFICATION.—Sections 79(d), 105(h), 125(b), 127(b)(2) and (3), 129(d)(2), (3), (4), and (5), 132(j)(1), 274(j)(3)(B), 401(a)(4), 401(a)(17), 401(a)(26), 401(k)(3) and (12), 401(m)(2) and (11), 404 (in the case of a plan subject to section 412), 410(b), 412, 414(q), 415, 416, 419, 422, 423(b), 505(b), 4971 4972, 4975, 4976, 4978, and 4979.

''(II) SIZE.—Sections 220, 401(k)(11), 401(m)(10), 408(k), and 408(p).

''(III) ELIGIBILITY.—Section 401(k)(4)(B).

''(IV) AUTHORITY.—Such other similar requirements as the Secretary may prescribe.

''(iv) WELFARE BENEFIT FUNDS.—With respect to a welfare benefit fund maintained by a certified professional employer organization for the benefit of work site employees performing services for a customer, section 419 shall be treated as not listed in clause (iii)(I) if the fund provides only 1 or more of the following:

''(I) Medical benefits other than retiree medical benefits.

''(II) Disability benefits.

''(III) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed or pledged for collateral for a loan.

''(v) EXCISE TAXES.—Notwithstanding clause (iii), the certified professional employer organization and the customer contracting for work site employees to pay services shall be jointly and severally liable for the tax imposed by section 4971 with respect to failure to meet the minimum funding requirements and the tax imposed by section 4976 with respect to funded welfare benefit plans.

''(vi) CONTINUATION COVERAGE REQUIREMENTS.—For purposes of applying the provisions of section 4980B with respect to a group health plan maintained by a certified professional employer organization for the benefit of work site employees:

''(I) TERMINATION OF EMPLOYMENT EVENTS.—Each of the following events shall constitute a termination of employment of a work site employee for purposes of section 4980B(f)(3)(B):

''(aa) The work site employee ceasing to provide services to any customer of such certified professional employer organization.

''(bb) The work site employee ceasing to provide services to one customer of such certified professional employer organization and becoming a work site employee with respect to another customer of such certified professional employer organization; and

''(cc) The termination of a service contract between the certified professional employer organization and the customer with respect to which the work site employee performs services, provided, however, that such a contract termination shall not constitute a termination of employment under section 4980B(f)(3)(B) for such work site employee if, at the time of such contract termination, such customer maintains a group health plan (other than a plan providing only excepted benefits within the meaning of sections 9831 and 9832 or a plan covering less than two participants who are employees).

''(II) TERMINATION EVENT CONSTITUTING A QUALIFYING EVENT.—If an event described in subparagraph (vi)(I) also constitutes a qualifying event under section 4980B(f)(3) with respect to the group health plan maintained by the certified professional employer organization for the affected work site employee, such plan shall no longer be required to provide continuation coverage as of any new coverage date.

''(III) NEW COVERAGE DATE WHEN TERMINATION EVENT CONSTITUTES QUALIFYING EVENT.—For purposes of subclause (II), a new coverage date shall be the first date on which—

''(aa) the customer maintains a group health plan other than a plan described in section 4980B(d), a plan providing only excepted benefits within the meaning of sections 9831 and 9832, or a plan covering less than two participants who are employees, or

''(bb) a service contract between such customer and another certified professional employee organization becomes effective under which worksite employees performing services for such customer are covered under a group health plan of such other certified professional employee organization, other than a plan described in section 4980B(d), a plan providing only excepted benefits within the meaning of sections 9831 and 9832, or a plan covering less than two participants who are employees.

''(IV) EFFECT OF CUSTOMER-MAINTAINED PLAN.—As of a new coverage date described in subclause (III)(aa), the customer shall be required to make continuation coverage available to any qualified beneficiary who was receiving (or was eligible to elect to receive) continuation coverage under a certified professional employer organization's group health plan and who is, or whose qualifying event occurred in connection with, a person whose last employment prior to such employee's qualifying event was as a work site employee providing services to such customer pursuant to a service contract with such certified professional employer organization.

''(C) EFFECT OF NEW SERVICE CONTRACT WITH CERTIFIED PEO.—As of a new coverage date described in subclause (III)(bb), the second certified professional employee organization shall be required to make continuation coverage available to any qualified beneficiary who was receiving (or was eligible to elect to receive) continuation coverage under the first certified professional employer organization's group health plan and who is, or whose qualifying event occurred in connection with, a person whose last employment prior to such employee's qualifying event was as a work site employee providing services to the customer pursuant to a service contract with the first certified professional employer organization.

''(vii) CONTINUED COVERAGE FOR QUALIFIED BENEFICIARIES.—As of the date that a certified professional employee organization's group health plan first provides coverage to one or more work site employees providing services to a customer, such group health plan shall be required to make continuation coverage available to any qualified beneficiary who was receiving (or was eligible to receive or elect to receive) continuation coverage under a group health plan sponsored by such customer if, in connection with coverage being provided by the organization's plan, such customer terminates each of its group health plans, other than a plan or plans providing only excepted benefits within the meaning of sections 9831 and 9832 or covering less than two participants who are employees.

''(viii) EFFECT OF TERMINATION OF PEO STATUS.—The termination of a professional employer organization's status as a certified professional employer organization—

''(I) shall constitute an event described in section 4980B(f)(3)(B) for any work site employee performing services pursuant to a contract between a customer and such professional employer organization, but

''(II) no loss of coverage within the meaning of section 4980B(f)(3) occurs unless, in connection with such termination of status as a certified professional employer organization, the individual formerly treated as a work site employee performing services for the customer pursuant to a contract with such professional employer organization ceases to be covered under the arrangement of the professional employer organization that had been, prior to such termination of status, the group health plan of such organization.

''(ix) PERSON LIABLE FOR TAX.—For purposes of the liability for tax under section 4980B, the person or entity required to provide continuation coverage under this clause (vi) shall be deemed to be the employer under section 4980B(e)(1)(A).

''(2) PLANS MAINTAINED BY CUSTOMERS OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a customer of a certified professional employer organization provides (other than through such organization) any employee benefits, then with respect to such benefits—

''(A) work site employees of the organization who perform services for the customer shall be treated as leased employees of such customer,

''(B) such customer shall be treated as a recipient for purposes of subsection (n), and paragraphs (4) and (5) of subsection (n) shall not apply for such purposes, and

''(C) with respect to such work site employees, sections 105(h), 403(b)(12), 422, and 423 shall be treated as a benefit listed in subsection (n)(3)(C).

''(3) PLANS MAINTAINED BY COMPANIES IN SAME CONTROLLED GROUP AS CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—In applying any requirement listed in paragraph (1)(B)(iii), a controlled group which includes a certified professional employer organization shall not include in such controlled group any work site employees performing services for a customer. For purposes of this paragraph, all persons treated as a single employer under subsections (b), (c), (m) and (o) shall be treated as members of the same controlled group.

''(4) RULES APPLICABLE TO PLANS MAINTAINED BY CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS AND PLANS MAINTAINED BY THEIR CUSTOMERS.—

''(A) SERVICE CREDITING FOR PARTICIPATION AND VESTING PURPOSES.—In the case of a plan maintained by a certified professional employer organization or a customer, for purposes of determining a work site employee's service for eligibility to participate and vesting under sections 410(a) and 411, rules similar to the rules of paragraphs (1) and (3) of section 413(c) shall apply to service for the certified professional employer organization and customer.

''(B) COMPENSATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subsection (s) and section 415(c)(3), or other comparable provisions of this title based on compensation which affects employee benefit plans, compensation received from the customer with respect to which the work site employee performs services shall be taken into account together with compensation received from the certified professional employer organization.

''(ii) EXCEPTION.—For purposes of applying sections 404 and 412 to a plan maintained by a certified professional employer organization, only compensation received from the certified professional employer organization shall be taken into account.

''(C) ELIGIBLE EMPLOYERS.—The provisions of sections 457(f)(1)(A) and (B) apply to a work site employee performing services for a customer that is an eligible employer as defined in section 457(e)(1). The preceding sentence shall not apply in the case of a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), an annuity plan or contract described in section 403, the portion of a plan which consists of a transfer of property described in section 83, the portion of a plan which consists of a trust to which section 402(b) applies, or a qualified governmental excess benefit arrangement described in section 415(m).

''(5) SPECIAL RULES WHERE MULTIPLE PLANS.—

''(A) IN GENERAL.—For purposes of applying section 415 with respect to a plan maintained by a certified professional employer organization, the organization and customers of such organization shall be treated as a single employer, except that if plans are maintained by a certified professional employer organization and a customer with respect to a work site employee, any action required to be taken by such plans shall be taken first with respect to the plan maintained by the customer.

''(B) MINIMUM BENEFIT.—If a minimum benefit is required to be provided under section 416, such benefit shall, to the extent possible, be provided through the plan maintained by the certified professional employer organization.

''(6) TERMINATION OF SERVICE CONTRACT BETWEEN CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION AND CUSTOMER.—

''(A) IN GENERAL.—

''(i) TREATMENT OF SUCCESSOR PLAN.—If a service contract between a customer and a certified professional employer organization is terminated and work site employees of the customer were covered by a plan maintained by the organization, then, except as provided in regulations, any plan of another certified professional employer organization or the customer which covers such work site employees shall be treated as a successor plan for purposes of any rules governing in-service distributions.

''(ii) TREATMENT AS SEVERANCE FROM EMPLOYMENT AND SEPARATION FROM SERVICE.—If a service contract between a customer and a certified professional employer organization is terminated, and there is no plan treated as a successor plan under clause (i), then such termination shall be treated as a plan termination with respect to each work site employee of such customer.

''(B) DISTRIBUTION RULES APPLICABLE TO SUBPARAGRAPH (A)(ii).—Except as otherwise required by this title, in any case to which subparagraph (A)(ii) applies, the certified professional employer organization plan may distribute—

''(i) during the 2-year period beginning on the date of such termination (in accordance with plan terms) only—

''(I) elective deferrals and earnings attributable thereto,

''(II) qualified nonelective contributions (within the meaning of section 401(m)(4)(C)) and earnings attributable thereto, and

''(III) matching contributions described in section 401(k)(3)(D)(ii)(I) and earnings attributable thereto,

of former work site employees associated with the terminated customer only in a direct rollover described in section 401(a)(31), and

''(ii) after such 2-year period, amounts in such plan in accordance with plan terms.''.

(c) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION DEFINED.—Chapter 79 of such Code (relating to definitions) is amended by adding at the end the following new section:

''SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

''(a) IN GENERAL.—For purposes of this title, the term 'certified professional employer organization' means a person who applies to be treated as a certified professional employer organization for purposes of sections 414(w) and 3511 and who has been certified by the Secretary as meeting the requirements of subsection (b).

''(b) CERTIFICATION.—A person meets the requirements of this subsection if such person—

''(1) demonstrates that such person (and any owner, officer, and such other persons as may be specified in regulations) meets such requirements as the Secretary shall establish with respect to tax status, background, experience, business location, and annual financial audits,

''(2) represents that it will satisfy the bond and independent financial review requirements of subsections (c) on an ongoing basis,

''(3) represents that it will satisfy such reporting obligations as may be imposed by the Secretary,

''(4) represents that it will maintain a qualified plan (as defined in section 408(p)(2)(D)(ii)) or an arrangement to provide simple retirement accounts (within the meaning of section 408(p)) which benefit at least 95 percent of all work site employees who are not highly compensated employees for purposes of section 414(q),

''(5) computes its taxable income using an accrual method of accounting unless the Secretary approves another method,

''(6) agrees to verify the continuing accuracy of representations and information which was previously provided on such periodic basis as the Secretary may prescribe, and

''(7) agrees to notify the Secretary in writing of any change that materially affects the continuing accuracy of any representation or information which was previously made or provided.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—An organization meets the requirements of this paragraph if such organization—

''(A) meets the bond requirements of subparagraph (2), and

''(B) meets the independent financial review requirements of subparagraph (3).

''(2) BOND.—

''(A) IN GENERAL.—A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C (in a form acceptable to the Secretary) that is in an amount at least equal to the amount specified in subparagraph (B).

''(B) AMOUNT OF BOND.—

''(i) IN GENERAL.—For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of:

''(I) 5 percent of the organization's liability for taxes imposed by this subtitle during the preceding calendar year (but not to exceed $1,000,000), or

''(II) $50,000.

''(ii) SPECIAL RULE FOR NEWLY CREATED PROFESSIONAL EMPLOYER ORGANIZATIONS.—During the first three full calendar years that an organization is in existence, subclause (I) of clause (i) shall not apply. For this purpose—

''(I) under rules provided by the Secretary, an organization is treated as in existence as of the date that such organization began providing services to any client which were comparable to the services being provided with respect to worksite employees, regardless of whether such date occurred before or after the organization is certified under section 7705, and

''(II) an organization with liability for taxes imposed by this subtitle during the preceding calendar year in excess of $5,000,000 shall no longer be described in this clause (ii) as of April 1 of the year following such calendar year.

''(3) INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—A certified professional employer organization meets the requirements of this subparagraph if such organization—

''(A) has, as of the most recent audit date, caused to be prepared and provided to the Secretary (in such manner as the Secretary may prescribe) an opinion of an independent certified public accountant as to whether the certified professional employer organization's financial statements are presented fairly in accordance with generally accepted accounting principles, and

''(B) provides to the Secretary an assertion regarding Federal employment tax payments and an examination level attestation on such assertion from an independent certified public accountant not later than the last day of the second month beginning after the end of each calendar quarter. Such assertion shall state that the organization has withheld and made deposits of all taxes imposed by chapters 21, 22, and 24 of the Internal Revenue Code in accordance with regulations imposed by the Secretary for such calendar quarter and such examination level attestation shall state that such assertion is fairly stated, in all material respects.

''(4) SPECIAL RULE FOR SMALL CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The requirements of paragraph (3)(A) shall not apply with respect to a fiscal year of an organization if such organization's liability for taxes imposed by subtitle C during the calendar year ending on (or concurrent with) the end of the fiscal year were $5,000,000 or less.

''(5) FAILURE TO FILE ASSERTION AND ATTESTATION.—If the certified professional employer organization fails to file the assertion and attestation required by paragraph (3) with respect to a particular quarter, then the requirements of paragraph (3) with respect to such failure shall be treated as not satisfied for the period beginning on the due date for such attestation.

''(6) AUDIT DATE.—For purposes of paragraph (3)(A), the audit date shall be six months after the completion of the organization's fiscal year.

''(d) SUSPENSION AND REVOCATION AUTHORITY.—The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 414(w) or 3511, or both, if the Secretary determines that such person is not satisfying the representations or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

''(e) WORK SITE EMPLOYEE.—For purposes of this title—

''(1) IN GENERAL.—The term 'work site employee' means, with respect to a certified professional employer organization, an individual who—

''(A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and

''(B) performs services at a work site meeting the requirements of paragraph (3).

''(2) SERVICE CONTRACT REQUIREMENTS.—A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

''(A) assume responsibility for payment of wages to the individual, without regard to the receipt or adequacy of payment from the customer for such services,

''(B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to the individual's wages, without regard to the receipt or adequacy of payment from the customer for such services,

''(C) assume responsibility for any employee benefits which the service contract may require the certified professional employer organization to provide, without regard to the receipt or adequacy of payment from the customer for such services,

''(D) assume shared responsibility with the customer for firing the individual and for recruiting and hiring any new worker,

''(E) maintain employee records relating to the individual, and

''(F) agree to be treated as a certified professional employer organization for purposes of sections 414(w) and 3511 with respect to such individual.

''(3) WORK SITE COVERAGE REQUIREMENT.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an individual if at least 85 percent of the individuals performing services for the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2).

''(B) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) WORK SITE.—The term 'work site' means a physical location at which an individual generally performs service for the customer or, if there is no such location, the location from which the individual receives job assignments from the customer.

''(ii) CONTIGUOUS LOCATIONS.—For purposes of clause (i), work sites which are contiguous locations shall be treated as a single physical location.

''(iii) NONCONTIGUOUS LOCATIONS.—For purposes of clause (i), noncontiguous locations shall be treated as separate work sites, except that each work site within a reasonably proximate area must satisfy the 85 percent

test under subparagraph (A) for the individuals performing services for the customer at such work site. In determining whether noncontiguous locations are reasonably proximate, all facts and circumstances shall be taken into account.

''(iv) WORK SITES 35 MILES OR MORE APART.—Any work site which is separated from all other customer work sites by at least 35 miles shall not be treated as reasonably proximate under clause (iii).

''(v) DIFFERENT INDUSTRY.—A work site shall not be treated as reasonably proximate to another work site under clause (iii) if the work site operates in a different industry or industries from such other work site as determined by the Secretary.

''(f) EMPLOYER AGGREGATION RULES.—

''(1) IN GENERAL.—For purposes of subsections (c)(2)(B)(ii), (c)(4) and (e), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 person.

''(2) PLANS MAINTAINED BY COMPANIES IN SAME CONTROLLED GROUP AS CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—For purposes of subsection (b)(4), if certified professional employer organizations are part of a controlled group, then the certified professional employer organizations (but no other member of the controlled group) shall be treated as 1 person.

''(3) QUALIFIED PLANS.—For purposes of subsection (b)(4)—

''(A) a qualified plan (as defined in section 408(p)(2)(D)(ii)) which is maintained by, or an arrangement to provide a simple retirement account (within the meaning of section 408(p)) to, a customer with respect to a work site employee performing services for such customer shall be treated as if it were maintained by the applicant, and

''(B) work site employees who do not meet the minimum age and service requirements of section 410(a)(1)(A) (or who are excludable from consideration under section 410(b)(3)) shall not be taken into account.

''(g) DETERMINATION OF EMPLOYMENT STATUS.—Except to the extent necessary for purposes of section 414(w) or 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

''(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and sections 414(w) and 6503(k).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 45B of such Code is amended by adding at the end the following new subsection:

''(e) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of this section, in the case of a certified professional employer organization that is treated, under section 3511, as the employer of a worksite employee who is a tipped employee, the credit determined under this section does not apply to such organization, but does apply to the customer of such organization. For this purpose the customer shall take into account any remuneration and taxes remitted by the certified professional employer organization.''.

(2) Section 707 of such Code is amended by adding at the end the following new subsection:

''(d) PAYMENTS TO CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a partnership that is a customer of a certified professional employer organization (as defined in section 7705) makes a payment to such an organization on behalf of a partner, and the payment, if made directly to the partner, would be treated as a guaranteed payment under section 707(c), the partnership shall treat the payment as if it were a guaranteed payment made to a partner. To the extent that the relevant partner receives all or any portion of such a payment, such partner shall be treated as receiving a guaranteed payment for services under section 707(c).''.

(3) Section 3302 of such Code is amended by adding at the end the following new subsection:

''(h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a certified professional employer organization (as defined in section 7705) (or a client of such organization) makes a payment to the State's unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section with respect to such payment.''.

(4) Section 3303(a) of such Code is amended—

(A) by striking the period at the end of subparagraph (D) of paragraph (3) and inserting ''; and'',

(B) by inserting immediately after paragraph (3) the following new paragraph:

''(4) a certified professional employer organization (as defined in section 7705) is permitted to collect and remit, in accordance with paragraphs (1), (2), and (3), contributions during the taxable year to the State unemployment fund with respect to a work site employee.'', and

(C) in the last sentence—

(i) by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraphs (1), (2), (3), and (4)'', and

(ii) by striking ''paragraph (1), (2), or (3)'' and inserting ''paragraph (1), (2), (3), or (4)''.

(5) Section 6053(c) such Code is amended by adding at the end the following new paragraph:

''(8) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of any report required by this section, in the case of a certified professional employer organization that is treated, under section 3511, as the employer of a worksite employee, the customer with respect to whom a worksite employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer any information necessary to complete such reporting no later than such time as the Secretary shall prescribe.''.

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 25 of such Code is amended by adding at the end the following new item:

''Sec. 3511. Certified professional employer organizations.''.

(2) The table of sections for chapter 79 of such Code is amended by inserting after the item relating to section 7704 the following new item:

''Sec. 7705. Certified professional employer organizations.''.

(f) REPORTING REQUIREMENTS AND OBLIGATIONS.—The Secretary of the Treasury shall develop such reporting and recordkeeping rules, regulations, and procedures as the Secretary determines necessary or appropriate to ensure compliance with the amendments made by this Act with respect to entities applying for certification as certified professional employer organizations or entities that have been so certified. Such rules shall be designed in a manner which streamlines, to the extent possible, the application of requirements of such amendments, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(f) USER FEES.—Subsection (b) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar letters) is amended by adding at the end the following new paragraph:

''(4) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The fee charged under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 of the Internal Revenue Code of 1986 shall not exceed $500.''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the later of—

(A) January 1, 2003, or

(B) the January 1st of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

(2) CERTIFICATION PROGRAM.—The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986 (as added by subsection (c) of this section) not later than 3 months before the effective date determined under paragraph (1).

(3) TRANSITION ISSUES.—For years beginning before the effective date specified in paragraph (1), subject to such conditions as the Secretary of the Treasury may prescribe, employee benefit plans in existence on the date of the enactment of this Act shall not be treated as failing to meet the requirements of the Internal Revenue Code of 1986 merely because such plans were maintained by an organization prior to such organization becoming a certified professional employer organization (as defined by section 7705 of such Code (as so added)).

By Mr. BAUCUS (for himself, Mr. HARKIN, Mr. LOTT, Mr. JEFFORDS, Mr. WARNER, Mrs. LINCOLN, Mr. SMITH of New Hampshire, Mr. REID, Mr. VOINOVICH, Mr. CRAPO, Mr. BURNS, Mr. THOMAS, Mr. BOND, Mr. DEWINE, Mr. GRAMM, Mr. HUTCHINSON, Mr. LIEBERMAN, Ms. LANDRIEU, and Mr. ENZI):

S. 1306. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Madam President, I rise today to introduce a piece of legislation that will help ensure that the Trust is restored to the Highway Trust Fund.

The Highway Trust Fund Recovery Act, HTFRA, of 2001 will direct 2.5 cents from the sale of gasohol into the Highway Trust Fund beginning in Fiscal Year 2004.

This bill is important for several reasons. First, the bill reconfirms the landmark 1998 highway bill—TEA 21, which is so important to economic development in Montana and throughout the country. Second, the bill will ensure that much needed highway improvements are made throughout the country. Third, this bill means more jobs for Montanans and others throughout the country.

It is, in short, the right thing to do.

By way of background, the gas tax was established for one simply reason: to finance the construction of the national highway system.

In 1993, there was a departure. The tax was increased, by 4.3 cents a gallon. And, for the first time, the tax was

used not for the highway program, but instead for deficit reduction.

I supported the increase, reluctantly, as part of an overall compromise that was a key step towards balancing the budget.

Even so, many of us were determined to restore the principle that the gas tax should only be used to fund our highway and related transportation programs. We worked, as we said, to ''put the trust back in the trust fund.''

It was a long, difficult fight. We faced tough opposition, from the Administration, the budget committees, and elsewhere. But, in the end, we prevailed. During the Senate's consideration of the 1998 highway bill, we provided that the entire gas tax, including the 4.3 cents, would go into the Highway Trust Fund and be used exclusively for highway construction and other transportation needs. When an amendment was offered to repeal the 4.3 cents tax, it was defeated.

Don't get me wrong. Nobody likes taxes. But, since its inception, the gas tax is how we get money to pay for our highways. As these things go, the gas tax has worked well.

Ensuring necessary and affordable energy supplies, including ethanol-blended motor fuels and other initiatives, is important to the quality of life and economic prosperity of all Americans. Policies to achieve these objectives, however, should not come at the expense of transportation infrastructure improvements.

Under current law, ethanol enjoys an exemption from current excise tax rates. This exemption allows the price of gasohol, ethanol mixed with gasoline, to be lower than the price of gasoline. Two and one half cents from the sale of this lower priced fuel is still sent to the General Fund of the U.S. Treasury. It should be going to the Highway Trust Fund.

Let me explain what the Highway Trust Fund Recovery Act of 2001 would mean for our nation's highway program. At least $400 million a year would now go where it belongs, toward the maintenance of our Nation's highways.

I'll get right to the point. Most of my colleagues were here for the highway bill debate. You know how difficult it was. You know how hard we fought to make sure that each of our states would get enough funding to support our transportation needs.

We still need more. As was made clear in the debate over TEA–21 in 1998, America still has a significant shortfall in funding when it comes to maintaining a serviceable highway system. The Department of Transportation estimates that the Nations requires $56.6 billion annually just to maintain existing road and bridge conditions on our Federal highway system. Yet TEA–21 meets only 56 percent of that need.

This 2.5 cent transfer means that thousands of hard-working folks who show up every day, in good weather and bad, to build our roads and improve our communities will have jobs to go to. These are people who depend on their jobs to support themselves and their families.

Pulling this all together, the Congress needs to find a way to enhancing our energy independence without undermining our highway programs. The Highway Trust Fund Recovery Act of 2001 is a step in the right direction.

There's one final point.

For the past few years, Congress has been criticized for putting partisan politics ahead of the public interest. In short, of not getting much done.

There have been some notable exceptions. Balancing the budget. Reforming the welfare system.

And, yes, reaching a bipartisan compromise on the 1998 highway bill, TEA–21. That bill did not just reauthorize the highway program. It renewed and revitalized the highway program. We passed it overwhelmingly, by a vote of 88–5. It was a great accomplishment.

We can confirm that accomplishment by passing the Highway Trust Fund Recovery Act of 2001.

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

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

S. 1306

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 ''Highway Trust Fund Recovery Act of 2001''.

SEC. 2. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(4) of the Internal Revenue Code of 1986 (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding ''or'' at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received in the Treasury after September 30, 2003.

Mr. VOINOVICH. Madam President, I rise today to join my colleague, Senator MAX BAUCUS, in introducing The Highway Trust Fund Recovery Act of 2001. The tax treatment of ethanol-blended fuels is an issue that is disproportionately reducing the amount of Federal highway funding States receive, serving as a disincentive to ethanol use, and impacting our ability to address fully our highway improvement needs. The legislation we are introducing today addresses this problem by ensuring that the portion of the per gallon Federal tax on ethanol-blended fuels which is currently deposited into the General Fund is deposited into the Highway Trust Fund instead.

As my colleagues may be aware, the Federal tax on gasoline that does not contain ethanol is 18.4 cents per gallon, whereas the Federal tax on gasohol, a blend of gasoline and ethanol, is 13.0 cents per gallon. The 5.4 cents per gallon tax difference is meant to keep the price of ethanol down, and serve as an incentive to help promote ethanol's use as a renewable and alternative fuel.

The 18.4 cents per gallon tax on gasoline is the major source of income to the Highway Trust Fund. The money that accumulates in the Highway Trust Fund is used for highway, highway safety, transit, and other surface transportation programs.

However, of the 13.0 cents per gallon Federal tax on gasohol, only 10.4 cents are sent to the Highway Trust Fund, .1 cent goes to the Leaking Underground Storage Tank Fund, while the remaining 2.5 cents are deposited into the General Fund of the Treasury. Although 2.5 cents does not sound like a lot of money, it actually adds up to hundreds of millions of dollars per year that are not being used for the purpose of improving our Nation's roadways, the reason they were collected in the first place.

The bill we are introducing today, the Highway Trust Fund Recovery Act, would ensure that the remaining 2.5 cent tax paid by highway users on ethanol-blended fuels is deposited into the Highway Trust Fund. Under the bill, annual deposits to the Highway Account would increase by some $400 million per year based on current gasohol sales.

Ohio has the Nation's 10th largest highway network, the 5th highest volume of traffic, the 4th largest interstate highway network, and the 2nd largest inventory of bridges in the country. While Ohio's traffic and congestion have risen, its Federal receipts have not risen commensurately because of the different tax treatment of ethanol-blended fuels.

The reason for this disproportion is because Ohio's uses of gasohol is among the highest in the Nation, 40 percent of the state's gasoline consumption in 2000 compared to a national average of around 10 percent. Since Ohio's Federal appropriation under the Transportation Equity Act for the 21st Century, TEA–21, is determined by its contribution to the Highway Trust Fund, and gasohol is taxed differently than conventional gasoline, gasohol consumption has significantly decreased the amount of revenue credited to Ohio in the Highway Trust Fund.

It's simple: less money in means less money out.

According to the Ohio Department of Transportation, ODOT, Ohio is losing more than $160 million per year due to gasohol consumption. To put that number in perspective, it equals 17 percent of Ohio's total obligation ceiling; over one half of the State's major new construction program budget; and it nearly equals the amount the State budgets for routine bridge repair and replacement for an entire year. Of that $160 million figure, the state is losing more than $50 million simply because 2.5 cents of the Federal tax on gasohol

are deposited into the General Fund. This amount is 5 percent of the Ohio's total obligation ceiling; one-sixth of Ohio's major new construction program; and equal to the amount ODOT budgets for safety improvement projects for a two-year period.

The 11 States that make up the Mississippi Valley Conference of the American Association of State Highway and Transportation Officials, AASHTO, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, account for 70 percent of the Nation's ethanol consumption. The Federal fuel tax rate for ethanol impacts this region more than any other region of the country. If the legislation we are introducing were enacted today, this region alone would receive over $225 million more in additional highway funding.

My State of Ohio has made the environmentally sound decision to utilize ethanol in order to keep the air clean; we should not be penalized with fewer highway dollars for doing the right thing.

Our legislation would not affect the highway formulas or distribution of funds under TEA–21, and it does not take effect until fiscal year 2004, after the expiration of TEA–21. It is important that Congress know what estimated Highway Trust Fund revenues will be prior to the next highway authorization process.

The current tax treatment of gasohol is a disincentive to use ethanol, a clean, renewable fuel source. The bill we are introducing today is good environmental policy, good agricultural policy, good energy policy, and good transportation policy. States should not be penalized for using ethanol. It does not make sense for taxes paid on ethanol-blended fuels to be deposited in the General Fund when we need more than $50 billion per year over the next 20 years just to maintain the current physical condition of our Nation's highways.

Taxes on ethanol are paid by motorists whose vehicles are causing the same wear and tear on our roads and bridges that non-ethanol-fueled vehicles cause. While we may have policy reasons for taxing ethanol at a lower rate or establishing a market for ethanol-blended fuels, surely we ought to insist that the taxes paid by ethanol users are deposited into the Highway Trust Fund where they can be used to make our highways safer and less congested.

This bill would help ensure that we have reliable alternative sources of energy, while we meet our clean air goals, but not at the expense of States' highway funding. I urge my colleagues to join me in cosponsoring this legislation, and I urge its speedy consideration by the Senate.

By Mr. DOMENICI:

S. 1309. a bill to amend the Water Desalination Act of 1996 to reauthorize that Act and to authorize the construction of a desalination research and development facility at the Tularosa Basin, New Mexico, and for other purposes; to the Committee on Environment and Public Works.

Mr. DOMENICI. Madam President, I rise today to introduce ''The Water Supply Security Act of 2001.'' Access to fresh water is an increasingly critical national and international issue. As the world's population grows and stores of fresh water are depleted, finding additional sources of fresh water is key to ensuring world peace and security.

In the Middle East, a major component of almost every peace agreement is water. President Khatami of Iran said last month that peace in the region will be largely determined by mechanisms to solve the problem of water. Shortly after being elected, Israeli Prime Minister Sharon stated that one of the first things he was going to do was to build two water desalting plants in Israel to meet that country's water needs.

Providing fresh water to the people of Africa is a key component in fighting the AIDS epidemic plaguing that continent. AIDS researchers have determined that a principal reason that mothers with AIDS and HIV are spreading the virus to their children is because there is not enough clean water to mix infant formula.

Here in the United States, arid states such as New Mexico are facing serious water shortages. City planners in my home town of Albuquerque have speculated that the city will not be able to grow much more because the aquifer located beneath the city is quickly drying up. Nevada, Arizona, Texas, California and Florida are facing similar problems. A study by the Hudson Institute found that by the year 2025, 45 percent of the U.S. population growth will occur in California, Texas, and Florida, States already facing severe water shortages. This population explosion will undoubtedly result in a scarcity of fresh water.

Although all these States have diminishing stores of fresh water, they all have large deposits of brackish and sea water. Because brackish and sea water account for over 97 percent of the water on earth, being able to cheaply convert this water into fresh water is important to ensuring an adequate supply of fresh water.

President Kennedy, a strong proponent of the government funding for desalting technology, stated ''if we could ever competitively, at a cheap rate, get fresh water from salt water . . . (this) would be in the long-range interests of humanity which would really dwarf any other scientific accomplishments.''

The R&D funded by the federal government between 1952 and the early 1980s resulted in the two desalting technologies that are most widely used today. The development of these widely used technologies would not have been possible had it not been for federally sponsored research and development. Just as these endeavors resulted in significant technological breakthroughs, I believe that a renewed investment by the federal government would lead to further advancements in the technology.

Although desalting technology has become significantly cheaper in recent years, the cost of desalting brackish and seawater is still substantially more expensive than treatment and delivery of other municipal water supplies. In 1996, Congress passed the Water Desalination Act of 1996. This created a small desalting R & D and demonstration program within the Bureau of Reclamation that was tasked with determining the most technologically efficient and cost-effective means by which useable water can be produced from saline water.

This program has been very successful despite receiving limited funding. However, their authorization is set to expire in 2002. The legislation I introduce today would re-authorize the desalting R & D and demonstration program run by the Bureau of Reclamation for an additional six years so that they can continue their work on ensuring that we are able to produce fresh water at a reduced cost.

In addition to renewing this program, the federal government needs to pursue next-generation technologies that would significantly drive down the cost of converting large volumes of readily available saline and brackish waters. Although desalting technology cost and performance have been significantly improved over the past thirty years, overall cost needs to be reduced by a factor of 5 to 10 to make desalted water affordable. While the currently available technologies may be meeting the needs of certain coastal communities with adequate resources to finance such technology, there is a real need for technologies that can tackle a broader range of applications and reduce costs significantly. Such revolutionary desalting technologies would provide significant relief to communities throughout the world, be they rich or poor, coastal or inland.

Our national laboratories have long been known for being at the forefront of science. The laboratories have extensive expertise in virtually all of the key science and technology areas necessary for developing next-generation desalting technology. Furthermore, the labs are already engaged in research and development in several non-traditional desalination technologies. As such, I believe our national laboratories should play a significant role in the development of this vital technology. Drawing from the technological expertise that the labs can provide should ensure that this endeavor will be a successful one.

The bill that I introduce today would direct a collaboration between the Bureau of Reclamation and the Department of Energy in evaluating current technology, advising on how to proceed

with additional research, authorizing the building of a facility where these advances in technology could be tested, and confirming project and operation costs in a real-world application. This bill would also employ the extensive knowledge in desalination technology that the Bureau of Reclamation has accumulated over the past 30 years by allowing that agency to conduct internal research.

I have no doubt that this legislation would help to push the state of the art forward to ensure that the world has access to this life sustaining resource for years to come.

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. 1309

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 ''Water Supply Security Act of 2001''.

SEC. 2. AUTHORIZATION OF RESEARCH AND STUDIES.

Section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended by adding at the end the following:

''(c) TULAROSA BASIN DESALINATION FACILITY.—

''(1) IN GENERAL.—

''(A) TECHNOLOGY PROGRESS PLAN.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, Sandia National Laboratories, in collaboration with the Secretary of Energy and in consultation with the Secretary, and using as models the roles of desalination facilities operated by the Federal Government and other research institutions as of the date of enactment of this subsection, shall develop a desalination technology progress plan that includes—

''(I) an overview of available short-term and long-term desalination technology development;

''(II) recommendations for the location, siting, and configuration of the facility under subparagraph (B);

''(III) an assessment of the contributions that the facility could make to the field of desalination; and

''(IV) recommendations concerning the most effective and efficient manner of carrying out subparagraph (B).

''(ii) COST-SHARING REQUIREMENTS.—The cost-sharing requirements described in sections 1604 and 1605 of the Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–2, 390h–3) shall not apply to—

''(I) the funding of the technology progress plan described in clause (i);

''(II) the facility authorized to be constructed under subparagraph (B); or

''(III) any research carried out by Sandia National Laboratories under this Act.

''(B) TESTING AND EVALUATION FACILITY.—

''(i) CONSTRUCTION.—Not later than 3 years after the date of completion of the technology progress plan under subparagraph (A), the Secretary of Energy, in collaboration with the Secretary and in accordance with the memorandum of understanding described in subparagraph (C) and the technology progress plan developed under subparagraph (A)(i), shall construct a desalination test and evaluation facility at the Tularosa Basin, located in Otero County in the State of New Mexico (referred to in this subsection as the 'facility').

''(ii) REPORT.—Not later than 1 year after the date on which the facility begins operation, the Secretary of Energy shall submit to Congress a report that describes project plans of, and any technological advancements developed by, the facility.

''(iii) CONTRACTORS.—The Secretary of Energy may enter into such contracts as are necessary (including contracts with other Federal agencies, State agencies, educational institutions, and private entities and organizations) to carry out this subparagraph.

''(C) MEMORANDUM OF UNDERSTANDING.—In carrying out this paragraph, the Secretary of Energy and the Secretary of the Interior shall enter into a memorandum of understanding under which the Secretary of Energy shall seek from the Secretary of the Interior, and the Secretary of the Interior shall provide to the Secretary of Energy, technical assistance and expertise in the development and construction of the facility.

''(2) PURPOSES.—The facility—

''(A) shall be used—

''(i) to carry out research on, and to test, demonstrate, and evaluate, new desalination technologies (including long-term, alternative technologies that have the potential for significant desalination cost reductions beyond the time frame of the focus of current research);

''(ii) to fully evaluate the performance of new technologies, including performance in—

''(I) energy consumption;

''(II) byproduct disposal; and

''(III) operational maintenance costs; and

''(iii) to determine the most technologically-efficient and cost-efficient means by which potable water may be produced from salinated water or other water that is unsuitable for use; and

''(B) should be capable of processing at least 100,000 gallons of water per day.

''(3) COLLABORATION; FACILITY DISCRETION.—

''(A) COLLABORATION.—All research at the facility shall be carried out by the Secretary of Energy, in collaboration with the Secretary.

''(B) FACILITY DISCRETION.—Research described in paragraph (2)(A)(i) may be carried out at the facility or at any other laboratory facility determined to be suitable by Sandia National Laboratories.

''(4) PROVISION OF WATER.—

''(A) IN GENERAL.—Subject to subparagraph (B), all desalinated water produced by the facility shall be provided to 1 or more communities located in Otero County, New Mexico, at no cost to the communities, as jointly determined by the Secretary of Energy and the Secretary.

''(B) TIMING; SUPPLEMENTARY ASPECT.—The water provided under subparagraph (A) shall be—

''(i) provided only after technology testing demonstrates that the water is of a consistent, reliable quality, as determined by Sandia National Laboratories, in coordination with the Secretary of Energy; and

''(ii) supplementary to water provided by public water systems or wells in the communities.

''(5) TECHNICAL ADVISORY COMMITTEE.—

''(A) IN GENERAL.—The Secretary and the Secretary of Energy shall jointly establish a technical advisory committee to provide, under such procedures as the Secretary and the Secretary of Energy shall jointly develop, program guidance and technical assistance in carrying out this subsection.

''(B) COMPOSITION.—

''(i) IN GENERAL.—The technical advisory committee shall be composed of—

''(I) representatives from the Department of the Interior and the Department of Energy, to be appointed by the Secretary and the Secretary of Energy, respectively; and

''(II) such additional representatives from academic institutions, the private sector, other Federal agencies, and educational institutions, as the Secretary and the Secretary of Energy, respectively, determine to be appropriate.

''(ii) CHAIRPERSONS.—A representative of the Department of the Interior selected by the Secretary and a representative of the Department of Energy selected by the Secretary of Energy shall serve as cochairpersons of the technical advisory committee.

''(6) COST SHARING.—Section 7 shall not apply to this subsection.''.

SEC. 3. CONSULTATION; AUTHORIZATION OF APPROPRIATIONS.

The Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) by striking section 8;

(2) by redesignating section 9 as section 8;

(3) in section 8 (as redesignated by paragraph (2)), in the first sentence, by striking ''Army,'' and inserting ''Army and the Secretary of Energy,''; and

(4) by adding at the end the following:

''SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

''(a) RESEARCH AND STUDIES.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out section 3 and section 4(c)(1)(A) $6,000,000 for each of fiscal years 2002 through 2008.

''(2) RESEARCH PROGRAMS.—Of the amounts made available under paragraph (1)—

''(A) not to exceed $1,000,000 for each fiscal year may be awarded, without any cost-sharing requirement, to institutions of higher education (including United States-Mexico binational research foundations and interuniversity research programs established by the 2 countries) for research grants; and

''(B) not less than $1,000,000 of the amount made available for fiscal year 2002 shall be used to carry out section 4(c)(1)(A).

''(3) INTERNAL RESEARCH.—

''(A) IN GENERAL.—Of the amounts made available under paragraph (1) to carry out section 3 for each of fiscal years 2002 through 2008, the Secretary may use not more than 25 percent for research carried out by the Department of the Interior.

''(B) COST SHARING.—Research described in subparagraph (A) shall not be subject to any cost-sharing requirement.

''(b) DESALINATION DEMONSTRATION AND DEVELOPMENT.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out section 4 (other than section 4(c)) $30,000,000 for the period of fiscal years 2002 through 2008.

''(2) DESALINATION RESEARCH AND DEVELOPMENT FACILITY.—There is authorized to be appropriated to the Secretary of Energy for transfer to Sandia National Laboratories, to carry out section 4(c) (other than section 4(c)(1)(A)) $6,000,000 for each of fiscal years 2003 through 2008.''.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AUTHORIZATION OF RESEARCH AND STUDIES.—Section 3 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively, and indenting appropriately;

(B) by striking ''In order to'' and inserting the following:

''(1) IN GENERAL.—To'';

(C) in the first sentence—

(i) by striking ''is authorized to award grants and to enter into contracts,'' and inserting ''may award grants and enter into cooperative agreements, interagency agreements, and contracts,''; and

(ii) by inserting ''and'' after ''financing of research''; and

(D) by striking ''Awards'' and all that follows through ''include—'' and inserting the following:

''(2) LOCATIONS.—If the Secretary determines that it is in the national interest, the Secretary may carry out a program described in paragraph (1), in accordance with all applicable law, at a location outside the United States.

''(3) BASIS FOR GRANTS, AGREEMENTS, AND CONTRACTS.—All awards of grants and all cooperative agreements, interagency agreements, and contracts entered into under paragraph (1), shall be made on the basis of a competitive, merit-reviewed process.

''(4) TOPICS.—Research and study topics authorized by this section include—''; and

(2) in subsection (c), by striking ''other facilities and educational institutions suitable'' and inserting the following: ''educational institutions, international organizations, international foundations, and international educational institutions, and other facilities suitable''.

(b) DESALINATION DEMONSTRATION AND DEVELOPMENT.—Section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following:

''(b) LOCATION.—If the Secretary determines that it is in the national interest, the Secretary may carry out the program described in subsection (a), in accordance with all applicable law, at a location outside the United States.''; and

(3) in subsection (c) (as redesignated by paragraph (1)), by striking ''conducted through'' and all that follows through ''to develop'' and inserting the following: ''conducted through the provision of grants to, and the entering into cooperative agreements and contracts (including cost-sharing agreements) with, non-Federal public utilities, State and local governmental agencies, educational institutions, international organizations, international foundations, international educational institutions, and other entities, as appropriate, to develop''.

(c) COST SHARING.—Section 7 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) by striking the first sentence and inserting the following:

''(a) IN GENERAL.—

''(1) ALL PROJECTS.—Notwithstanding any other provision of law, the Federal share of the cost of a research, study, or demonstration project or a desalination development project or activity carried out under this Act—

''(A) except as provided in paragraph (2) and in section 9(a)(3)(B), shall not exceed 100 percent of the total cost of the project or activity; and

''(B) may be paid out of—

''(i) funds made available to the Secretary, in an amount not to exceed 50 percent of the total cost of the project or activity;

''(ii) funds made available to 1 or more other heads of Federal agencies; or

''(iii) a combination of funds described in clauses (i) and (ii).

''(2) INTERIOR PROJECTS.—The Federal share of the cost of a project or activity described in paragraph (1) that is carried out by the Secretary shall not exceed 50 percent.'';

(2) by striking ''A Federal contribution'' and inserting the following:

''(b) DETERMINATION OF INFEASIBILITY.—A contribution by the Secretary described in subsection (a)(2) that is'';

(3) by striking ''The Secretary shall prescribe'' and inserting the following:

''(c) PROCEDURES.—The Secretary shall prescribe''; and

(4) by striking ''Costs of operation,'' and inserting the following:

''(d) NON-FEDERAL RESPONSIBILITIES.—Costs of operation,''.

(d) CONSULTATION.—Section 8 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) (as redesignated by section 3(2)) is amended to read as follows:

''SEC. 8. CONSULTATION.

''(a) IN GENERAL.—In carrying out this Act, the Secretary shall consult with the heads of other Federal agencies (including the Secretary of the Army) that have experience in conducting desalination research or operating desalination facilities.

''(b) INTERNATIONAL CONSULTATION.—In a case in which the Secretary intends to conduct an activity under this Act in accordance with section 3(a)(2) or 4(b), the Secretary shall consult with the Secretary of State before beginning the conduct of the activity.

''(c) OTHER PROGRAMS.—Nothing in this Act prohibits any other agency from carrying out a program for desalination research or operation that is authorized under any other provision of law.''.

By Mr. REID:

S. 1310. A bill to provide for the sale of certain real property in the Newlands Project, Nevada, to the city of Fallon, Nevada; to the Committee on Energy and Natural Resources.

Mr. REID. Madam President, I rise today to introduce legislation to provide the City of Fallon, NV, the exclusive right to purchase approximately 6.3 acres of public land located in the downtown area of the City. My bill, the Fallon Rail Freight Loading Facility Transfer Act, will enable the City of Fallon to make the necessary long-term investments to ensure the future viability of this important municipal asset.

Fallon is a rural agricultural community of 8700 residents located in northern Nevada approximately 70 miles east of Reno. Since 1984 the City has leased approximately 6.3 acres of property from the U.S. Bureau of Reclamation that it utilizes as a rail freight yard and loading facility. The City, the State of Nevada, the U.S. Department of Transportation and the Southern Pacific Railroad have collectively invested a significant amount of money in this facility that is directly responsible for over 400 jobs in the community.

On January 1, 2000, the long-term lease agreement between the City of Fallon and the Bureau of Reclamation expired. As negotiations began for a new long-term lease the City and the Bureau came to the conclusion that it would be in both party's best interests to have ownership of this property transferred to the City.

The City would be able to make long term investments in a facility that it owned without having to worry about renegotiating new leases and the possibility of losing access to the property which is critical to the economic well being of the community. The Bureau of Reclamation would be able to divest itself from an asset that no longer serves a purpose to its core mission allowing more of its scarce resources to be focused on the traditional roles of the Bureau. Of course this transfer will be contingent on the satisfactory conclusion of all necessary environmental reviews and will be purchased by the City at fair market value.

The Fallon Rail Freight Loading Facility Transfer Act is a win-win situation for all affected parties. I look forward to prompt consideration of this important piece of legislation.

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. 1310

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 ''Fallon Rail Freight Loading Facility Transfer Act''.

SEC. 2. CONVEYANCE TO THE CITY OF FALLON, NEVADA.

(a) CONVEYANCE.—

(1) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Interior shall convey to the city of Fallon, Nevada, all right, title, and interest of the United States in and to approximately 6.3 acres of real property in the Newlands Reclamation Project, Nevada, generally known as ''380 North Taylor Street, Fallon, Nevada'', and identified for disposition on the map entitled ''Fallon Rail Freight Loading Facility''.

(2) MAP.—The map referred to in paragraph (1) shall be on file and available for public inspection in—

(A) the office of the Commissioner of Reclamation; and

(B) the office of the Area Manager of the Bureau of Reclamation, Carson City, Nevada.

(b) CONSIDERATION.—

(1) IN GENERAL.—The Secretary shall require that, as consideration for the conveyance under subsection (a), the city of Fallon, Nevada, shall pay to the United States an amount equal to the fair market value of the real property, as determined—

(A) by an appraisal of the real property conducted not later than 60 days after the date of enactment of this Act by an independent appraiser approved by the Commissioner of Reclamation; and

(B) without taking into consideration the value of any structure or other improvement on the property.

(2) CREDIT OF PROCEEDS.—The amount paid to the United States under paragraph (1) shall be credited, in accordance with section 204(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(c)), to the appropriate fund in the Treasury relating to the Newlands Reclamation Project, Nevada.

(c) LIABILITY.—The conveyance under subsection (a) shall not occur until such date as the Commissioner of Reclamation certifies that all liability issues relating to the property (including issues of environmental liability) have been resolved.

By Mr. LEAHY (for himself, Mr. BROWNBACK, Mr. KENNEDY, Ms.

COLLINS, Mr. DURBIN, Mr. JEFFORDS, and Mr. GRAHAM):

S. 1311. A bill to amend the Immigration and Nationality Act to reaffirm the United States historic commitment to protecting refugees who are fleeing persecution or torture; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I am proud to introduce the Refugee Protection Act, a bipartisan bill that would sharply reduce the use of expedited removal at our borders while also reducing the number of asylum seekers whom we detain. This is a bipartisan bill, I am joined today by Senators BROWNBACK, KENNEDY, COLLINS, DURBIN, JEFFORDS, and GRAHAM. I am grateful for the support of the Chairman and Ranking Member of the immigration subcommittee.

In 1996, I introduced an amendment to the Illegal Immigration Reform and Immigrant Responsibility Act, ''IIRIRA'', that would have authorized the use of expedited removal only at times of immigration emergencies. The bill we introduce today is modeled on that proposal. That amendment passed the Senate with bipartisan support, but was omitted from the bill that was reported out of a partisan, closed conference. As a result, expedited removal took effect on April 1, 1997. America's historic reputation as a beacon for refugees has suffered as a consequence, and it is long past time to restore it.

Expedited removal allows INS inspections officers summarily to remove aliens who arrive in the United States without travel documents, or even with facially valid travel documents that the officers merely suspect are fraudulent, unless the aliens utter the magic words 'political asylum' upon their first meeting with American immigration authorities. This policy is fundamentally unwise and unfair, both in theory and in practice, and its efficacy and fairness has come under increasing criticism.

First, expedited removal ignores the fact that many deserving asylum applicants are forced to travel without papers. For example, victims of repressive governments often find themselves forced to flee their homelands at a moment's notice, without time or means to acquire proper documentation. Or a government may systematically strip refugees of their documentation, as the Serbian government did in Kosovo in 1999.

Second, expedited removal places an undue burden on refugees, and places too much authority in the hands of low-level INS officers. Refugees typically arrive at our borders ragged and tired from their ordeals, and often with little or no knowledge of English. Our policy forces them to undergo a secondary inspection interview with an INS officer without expertise in asylum and with the power to deport them on the spot, subject only to a supervisor's approval. By law, anyone who indicates a fear of persecution or requests asylum during this interview is to be referred for an interview with an asylum officer. But no safeguards exist to guarantee that this happens, and the secondary inspection interviews generally take place behind closed doors with no witnesses. Indeed, this interview often becomes unduly confrontational and intimidating. As the Lawyers Committee for Human Rights has documented, refugees are detained for as long as 36 hours, are deprived of food and water, and are often shackled. If they are lucky, they will be provided with a competent interpreter. If they are unlucky, they will receive no interpreter at all, an interpreter with extraordinarily limited knowledge of their language, or even an interpreter who works for the airline owned by the government that they claim is persecuting them. Such a system is a betrayal of our ideals, and we need to reform it.

I was heartened to hear James Ziglar, the President's choice to head the INS, criticize expedited removal at his confirmation hearing. He said: ''I definitely think we need to change the process where asylum-seekers come here, to make sure that we know who these people are and what their claims are and whether they're legitimate before we turn around and put them on a plane back to an uncertain future.'' I could not agree more with Mr. Ziglar, and I look forward to working with him on this issue.

I was also moved by the recent words of Theodore McCarrick, the new Archbishop of Washington, in a July 22 oped in the Washington Post. Archbishop McCarrick described how expedited removal forces potential asylum seekers arriving on our shores ''to immediately articulate their fear of return'' or be ''subject to immediate deportation without any recourse to the legal system.'' He wrote: ''Those who come to our shores and request asylum should be given a chance to make their case before a qualified asylum officer and immigration judge. The Refugee Protection Act to be considered by Congress would reform the U.S. asylum system appropriately and should be enacted.''

The Archbishop described the case of Ditron, an ethnic Albanian from Kosovo who fled from the Milosevic government in early 1998 and made it all the way to Newark International Airport, where he tried to gain asylum. But the language barrier prevented him from communicating his fear of returning to Kosovo to the INS inspector, and he was put on a plane and deported under expedited removal. We only know about his story because he was somehow able to make it back to the United States a second time, and his application for asylum is now pending. But such a 50 percent success ratio is simply unacceptable for this Nation.

I became aware of another very disturbing case last summer. A domestic violence victim from the Dominican Republic fled to the United States. The INS believed that she had been a victim and that her life would be endangered if she were returned to her native country. Nonetheless, she was ordered deported under expedited removal because the INS officers who interviewed her took it upon themselves to make a legal determination that victims of domestic violence were ineligible for asylum on that ground. It is bad enough that these officers decided their responsibilities in implementing expedited removal went so far as interpreting U.S. asylum law. Even worse, they got the law wrong. Although a recent Board of Immigration Appeals decision had indicated that domestic violence victims could not gain asylum here, that decision was under review at the time and was later vacated by then-Attorney General Janet Reno. Luckily, a number of Members of Congress intervened in the case and the INS did not deport this woman, who has since been granted asylum. But had her case not been brought to our attention by the Lawyers' Committee for Human Rights, she would likely have become a silent victim of the expedited removal process.

Another expedited removal horror story came to our attention just last week. Libardo Yepes Holguin fled Colombia last November after his life was threatened by the paramilitary forces involved in the civil war there. When he arrived at Miami International Airport, he told the INS inspectors that he feared being returned to Colombia and that he wanted to seek asylum. He was nonetheless put on a plane back to Colombia, where his life was again threatened. He managed to escape again, and this time entered the United States by crossing a river from Mexico. He was seized by INS officers and has been detained in Texas since May. The INS is currently attempting to remove Mr. Yepes Holguin based on the prior removal order entered against him in Miami last fall, despite his sworn testimony that his repeated requests to apply for asylum were ignored.

Finally, and most shockingly, expedited removal has even been used against U.S. citizens. Sharon McKnight, a 35-year old U.S. citizen with the mental capacity of a 5-year old, returned to the United States last June from a trip to visit her grandfather in Jamaica. INS inspectors did not believe she was a citizen, wrongly questioning the authenticity of her U.S. passport and dismissing as fake the birth certificate presented by her waiting relatives that showed she was born on Long Island. She was held overnight in a room at the airport, handcuffed and with her legs shackled to a chair. During the entire time she was at the airport she was given nothing to eat and was not allowed to use the restroom. Ms. McKnight was put on a plane back to Jamaica, denied entrance to her own country because of expedited removal. Although immigration officials realized their mistake eventually and allowed her to return, any system that permits such ''mistakes'' is sorely in need of reform. For

her part, Ms. McKnight has said: ''They treated me like an animal—I will have nightmares all my life.''

These stories, just four of the many stories demonstrating the human cost of expedited removal, go a long way toward showing the inhumanity of the new immigration regime that Congress imposed in 1996. But refugees and U.S. citizens are not the only people affected by expedited removal. Human rights groups have also documented numerous cases where people traveling to the United States on business, with proper travel documents, have been removed based on the so-called ''sixth sense'' of a low-level INS officer who suspected that their facially valid documents were fraudulent. In other words, the damage done by expedited removal also threatens the increasingly international American economy, if businesspeople from around the world are treated disrespectfully at our ports of entry, they are likely to take their business elsewhere.

But perhaps the most distressing part of expedited removal is that there is no way for us to know how many deserving refugees have been excluded. Because secondary inspection interviews are conducted in secret, we typically only learn about mistakes when refugees manage to make it back to the U.S. a second time, like Ditron, or when they are deported to a third country they passed through on their way to the U.S., like Mr. Thevakumar. This uncertainty should lead us to be especially wary of continuing this failed experiment.

As I said, my bill would limit the use of expedited removal to times of immigration emergencies, defined as the arrival or imminent arrival of aliens that would substantially exceed the INS' ability to control our borders. The bill gives the Attorney General the discretion to declare an emergency migration situation, and the declaration is good for 90 days. During those 90 days, the INS would be authorized to use expedited removal against people coming from a nation whose crisis has given rise to the emergency migration situation. The Attorney General can extend the declaration for further periods of 90 days, in consultation with the House and Senate Judiciary Committees.

This framework allows the government to take extraordinary steps when a true immigration emergency threatens our ability to patrol our borders. At the same time, it recognizes that expedited removal is an extraordinary step, and is not an appropriate measure under ordinary circumstances.

This bill also provides safeguards that will guarantee refugees some due process rights, even during immigration emergencies. First, aliens would be given the right to have an immigration judge review a removal order, and would have the opportunity both to speak before the immigration judge on their own behalf and to be represented at the hearing at their own expense. To make these rights meaningful, immigration officers would be required to inform aliens of their rights before they are removed or withdraw their application to enter the country. This provision takes away from INS inspectors the unilateral, and prior to 1997, unprecedented, power to remove an alien from the United States.

Second, this bill reforms the procedures used to determine whether an applicant who seeks asylum has a credible fear of persecution. If an asylum officer determines that an applicant does not have a credible fear of persecution, the applicant will now have a right to a prompt review by an immigration judge. The applicant will have the right to appear at that review hearing and to be represented, at the applicant's expense.

Even those asylum seekers who are found to have a credible fear of persecution and thus escape expedited removal move on to another troubled system. Under current law and practice, they are often detained in INS detention facilities or in local jails where the INS rents space. In other words, these men and women who have fled persecution in their native lands are all too often treated like common criminals. We need to do something to solve this problem as well, and the Refugee Protection Act attempts to do so.

As a young girl in Zaire, now the Democratic Republic of Congo, Adolphine Mwanza lived in a convent and was studying to be a nun. Her family was known to be opposed to the corruption of the ruling Mobutu regime. Her brother was killed, and she was kidnapped, tortured, and raped. She escaped from the country and fled to the United States in November 1999 on a Zambian passport. She was sent to an INS detention facility in Elizabeth, New Jersey, where she was found to have a credible fear of persecution. But despite the fact that she had volunteer attorneys from the New York University Law School clinic, and a Roman Catholic convent had agreed to house and support her, her request for parole from detention was denied by the INS. She was held in a detention facility for eight months, until she was granted aslyum.

This is senseless. We should not detain people whom our own government has found to be likely candidates for asylum as if they were awaiting a criminal trial. Moreover, the cost to the government to detain someone like Adolphine Mwanza for eight months cannot be justified. And she is not alone. Many asylum seekers are detained for more than a year even though there are family members or nongovernmental organizations that are willing to house them and ensure that they appear for their asylum hearing.

The Refugee Protection Act would clarify that the Attorney General has the option to parole asylum seekers, and would add language to existing law to say that it is the policy of the United States not to detain asylum seekers who have been found to have a credible fear of persecution. It also instructs the Attorney General to promulgate regulations to authorize and promote the use of alternatives to the detention of asylum seekers, such as paroling them to private nonprofit voluntary agencies. For those who would still be detained, the bill would guarantee access to legal and religious services. It would also ensure that they are only detained in INS facilities or in contract facilities that contain only immigration detainees asylum seekers would no longer be housed alongside criminals in county jails. In addition, asylum seekers would have the right to have an asylum officer make a determination about whether they should be paroled from detention, and to have an immigration judge review that determination.

These changes will reduce the use of detention against asylum seekers, offer them fundamental due process rights, and improve the conditions of their confinement in those cases where detention is appropriate. These are crucial steps, and we should act on them as quickly as possible.

Finally, this bill includes three additional provisions. First, it would eliminate the one-year deadline for asylum applicants that was imposed in 1996. By definition, worthy asylum applicants have arrived in the United States following traumatic experiences abroad. They often must spend their first months here learning the language and adjusting to a culture that in many cases is extraordinarily different from the one they know. Therefore, although I can understand the desire to have asylum seekers submit timely applications, the existing one-year rule does not make sense.

Second, the bill would eliminate the existing annual limit on the number of people who have been granted asylum who can become legal permanent residents. Once we have decided that someone is worthy of asylum, we should not delay their adjustment into American society. These are people who have chosen the United States because of its ideals and its freedoms, in other words, they are exactly the sort of people we would want to become citizens. We need to eliminate the backlogs that prevent them from starting that process by getting their green cards. This bill will do that.

Third, the bill eliminates the annual limit on the number of refugees who may be admitted or granted asylum because they are subject to persecution for resistance to coercive population control methods. Under current law, only 1000 people can be accepted to the United States in any year for that reason. Americans are united in their opposition to forced sterilization and abortion, and we should not place an artificial limit on the number of people fleeing from such policies that we will accept.

This bill has received the support of a wide variety of civil rights and religious groups, with a coalition of over

50 groups, from the Lawyers' Committee for Human Rights to the Hebrew Immigrant Aid Society to the Lutheran Immigration and Refugee Service, endorsing it. And even before it has been introduced it has been the subject of favorable editorials or op-eds in the Washington Post, Pittsburgh Post-Gazette, San Francisco Chronicle, San Diego Union-Tribune, Newark, Star-Ledger, Arizona Republic, Baltimore Sun, Minneapolis Star-Tribune, San Antonio Express-News, South Florida Sun-Sentinel, Oakland Tribune, Buffalo News, Bangor, ME., Daily News, and Harrisburg, PA., Patriot-News. Meanwhile, the immigration subcommittee of the Judiciary Committee has already heard testimony this year about the inherent unfairness of our current expedited removal and detention policies from people who went through those systems before being granted asylum. I hope that the momentum this bill already has will lead to prompt consideration by the Senate.

Even in 1996, a year in which immigration was as unpopular in this Capitol as I can remember, this body agreed that expedited removal was inappropriate for a country of our ideals and our historic commitment to human rights. And that agreement cut across party lines, as many of my Republican colleagues voted to implement expedited removal only in times of immigration emergencies. I urge them, as well as my fellow Democrats, to support this legislation and to work for its prompt passage.

Mr. BROWNBACK. Madam President, I am pleased to join my distinguished colleagues, Senators LEAHY, COLLINS, and KENNEDY, among others to introduce the Refugee Protection Act of 2001. The Refugee Protection Act will restore fairness to our treatment of refugees who arrive at our shores seeking freedom from persecution and oppression. It will reduce the number of asylum seekers placed in prison-like detention facilities.

On July 10, standing on Ellis Island, President Bush said, ''America at its best is a welcoming society.'' From our very beginnings almost 400 years ago when the refugee Pilgrims landed on Plymouth Rock seeking religious freedom, our Nation has welcomed refugees. When we give refuge to desperate people fleeing extraordinary persecution, we are a better Nation. Moreover, asylees, by definition, represent the best of American values. Often they are people who have stood alone, at great personal cost, against hostile governments for principles that are fundamental to us such as political and religious liberty. Therefore, as Americans with a noble legacy, we must continue to examine our asylum policies with an eagle-eyed vigilance for fairness and justice.

On May 3, I chaired an Immigration Subcommittee hearing on asylum policy. We heard testimony that genuine refugees are, from time to time, mistakenly deported by INS inspectors, treated abusively during airport inspections, and that many asylum seekers are detained in prison-like conditions well beyond the time needed to determine their identity and establish that they have a credible fear of persecution.

First of all, it must be stated that the men and women who serve the INS are dedicated public servants, with a difficult job and in no fashion do I want to indict them. They often work under extremely demanding conditions, sometimes with insufficient resources, yet they complete their difficult tasks with fairness and good judgment. However, we must examine various incidents of abuse which have come to our attention regarding the treatment of asylee applicants while their claim is pending. Clearly, these incidents are not official INS policy and most officers would abhor such mistreatment, yet they do occur, nonetheless, and therefore must be addressed.

At that hearing, former asylum seekers presented moving testimony about such mistreatment. For example, Mekabou Fofana, a Liberian teenager, testified that he arrived at JFK airport nine days before his 16th birthday. Despite his request, he was not provided with a Mandingo interpreter. When INS officials twisted his arm and attempted to forcibly fingerprint him, Mekabou fell to the floor, hitting his head and bleeding so profusely that he had to be taken to the hospital. After a year and a half in detention in adult facilities, Mekabou was granted asylum and is now attending high school in New York City.

An Albanian asylum seeker who arrived at O'Hare International Airport in Chicago last year also submitted testimony to the subcommittee. This testifier who wishes to remain anonymous was dragged by his clothing after he explained that he wished to apply for asylum. Despite his requests, he was not provided with an Albanian interpreter whom he could understand, and officers yelled at him when he refused to sign documents written in English that he could not comprehend.

Faheem Danishmandi, a refugee from Afghanistan, arrived in America at age nineteen, traumatized by the recent killing of his father and separation from his mother. When he told an INS officer that he did not have a passport, the officer roughly searched him, apparently looking for documents then he was chained to a bench for 25 hours. After five months in detention, he was granted asylum.

Amin Al-Torfi, a torture survivor from Iraq, fled to America after he and his family were persecuted by Saddam Hussein's regime because of their political opinions and religious beliefs. At the airport, he was told that he would have to wait three days to get an Arabic interpreter. He was shackled by the leg to a bench for eight hours, strip-searched, and led handcuffed with another asylum seeker through the airport in front of other passengers. After five months of detention, Amin was granted asylum.

A change in our law is desperately needed. I believe in the enforcement of our nation's immigration laws. I also believe that people who find themselves under INSA jurisdiction deserve humane treatment. We are a *Nation* of immigrants, of refugees, of the courageous who resisted governmental persecution and fled to America in search of freedom. Given this proud tradition, we have a higher responsibility to asylum seekers. We have a responsibility to afford them a fair opportunity to present their asylum claims, a responsibility to not unnecessarily detain them for extended periods, and a responsibility not to turn them away to suffer further persecution.

At the May 3 hearing, Leonard Glickman, President of the Hebrew Immigrant Aid Society testified on behalf of his own agency and five other Jewish organizations. Mr. Glickman discussed the tragic history of 900 Jews on the ship, the *St. Louis*, who, in 1939, were fleeing Nazi persecution. American immigration officials turned them away from the Port of Miami and they were forced to return to Europe where most perished. He concluded that, ''The Jewish community is greatly concerned about the major changes that were instituted in the U.S. asylum system in 1996, changes that we believe threaten to undermine refugee protection and US global leadership in this area.''

Dr. Don Hammond, a Senior Vice President for World Relief also testified. World Relief is the relief, development, and refugee assistance arm of the National Association of Evangelicals which has called for passage of the Refugee Protection Act. Dr. Hammond stated that there has been a significant increase in religious persecution in a number of countries around the world. A University of California study of expedited removal listed the 101 countries with the highest number of people being turned away from the United States and sent back to their countries of origin. According to Dr. Hammond, of those 101 countries, almost 40 percent are listed on the Open Doors World Watch list of countries that severely restrict religious freedom. ''In other words,'' Dr. Hammond concluded, ''over a third of those who were subjected to expedited removal from the U.S. were being sent back to countries which are known to persecute Christians'' and other religious minorities.

I believe that the future of American immigration policy towards asylees is promising. In his July 18 confirmation hearing to serve as INS Commissioner, James Ziglar committed to changing INS policy regarding asylum seekers. He said, ''I definitely think that we need to change the process where asylum-seekers come here, to make sure that we know who these people are and what their claims are and whether they're legitimate before we turn around and put them on a plan back to

an uncertain future.'' Mr. Ziglar continued that, ''I am not one who particularly likes the idea in general of people being detained, unless they have been convicted of a crime, or unless they create some kind of danger to the community. So, my inclination in general is not to detain people unless there is some kind of valid reason, subject to all the due process requirements.'' Passage of the Refugee Protection Act, combined with fair and humane enforcement by an INS committed to the protection of refugees, will ensure that our *Nation* once again fully lives up to the dreams of the immigrants who built this great nation as a refuge of freedom and justice.

Mr. KENNEDY. Madam President, I am honored to join Senator LEAHY, Senator BROWNBACK, and other colleagues, in introducing the ''Refugee Protection Act of 2001.'' Our goal is to protect courageous persons who arrive on our shores seeking asylum, provide alternatives to detention for asylum seekers, and improve detention conditions for all persons detained by the INS. The bill also eliminates the arbitrary one-year deadline on filing for asylum, and eliminates the cap on the number of persons granted asylum who can adjust their status to lawful permanent resident.

Every day people are forced to leave their native lands in desperation, fearing for their lives and for the lives of their loved ones. Many of them arrive in the United States seeking asylum, and we have a responsibility to ensure they are able to request it in a fair and efficient manner.

In 1996, Congress enacted harsh immigration laws that included an expedited removal process granting INS inspection officers broad authority to summarily remove potential asylum seekers if they arrive without proper papers. This process also requires persons seeking asylum to specifically state their fear of persecution or their intent to apply for asylum immediately upon arriving in the U.S. But asylum seekers are often traumatized, and are unable to speak to a stranger about their harrowing experience. This is particularly true when they first arrive in the U.S., often after a long and difficult journey.

Many asylum seekers are unable to articulate their fears, especially to government officials whom they may view with distrust because of past experience in their home countries. Many of them speak very little, if any, English, and adequate translators are often not available to assist them in making their asylum claims.

Legal representation is not permitted at the initial and most critical phase of the expedited removal process, thereby increasing the likelihood that individuals actually eligible for asylum will be turned away and sent back to their native lands to face additional persecution. The law contains no opportunity for judicial appeal of decisions on summary removal. Instead, low-level INS employees have broad, unchecked authority to issue final and binding deportation orders.

Some argue that the expedited removal process is appropriate. Their view is based on the false assumption that the process, in practice, follows the procedures in the regulations. In particular, the regulations require a careful interview and the taking of a systematic sworn statement, a process that should take several hours. The officer conducting the interview must begin by reading a set of specific advisories, including an express notice that persons who fear persecution in their native lands may claim asylum in the U.S.

The interviewing officer must also ask specific questions about whether the person has ''any fear or concern'' about return to their homeland. And if the person faces charges, the charges must be explained orally, in a language the individual understands. The regulations also require review of the file and approval of any removal or deportation order by a high-level supervisor before an expedited removal order is considered final.

It is clear that these regulations are not adequately followed in practice. Members of my staff have observed first-hand the unfair process. During a visit to JFK International Airport, my staff toured the area where inspection interviews were held and spoke with INS employees. The interviews were conducted side-by-side in a large, open room, affording no privacy to persons who had to share very personal and painful information with government officials.

My staff met with an inspector, who was informed that he would be meeting with congressional staff. The inspector told the staff about the ''cockamamie stories people make up'' and the phony documents they present. Upon hearing these stories, he said that he puts people back on a plane and sends them ''out of here.''

The inspector admitted that he did not read anyone any advisories to determine whether they were fearful. The inspector said that anyone who wants to apply for asylum would tell him about that immediately, and those were the only people he referred to asylum officers for interviews. He made this statement in spite of the fact that many asylum seekers do not ask for asylum. Our staff members, including the staff from other members' offices, were appalled by these remarks and behavior.

When a supervisor was asked whether the inspectors received training in asylum and interviewing techniques, the supervisor dismissed training as ''warm fuzzy stuff,'' even though many asylum seekers have fled persecution by people in uniforms and are reluctant to speak to uniformed INS officers.

Many immigration groups representing asylum seekers have shared similarly shocking stories. The expedited removal process has caused great hardships for many vulnerable individuals.

Recently, the Immigration Subcommittee held a hearing on asylum policy. At the hearing, a young man from the Democratic Republic of Congo recounted the tragic circumstances that led to his escape. He described being severely beaten and tortured by security forces, and then witnessing his father's death at the hands of these forces. His mother and sisters fled the family home and he has not seen them since.

Upon his arrival in the U.S., he was placed in chains and taken to a detention facility. Neither an interpreter nor a lawyer was present to assist him. Yet, the INS officer decided he did not have a credible fear of persecution and ordered his deportation. An immigration judge reviewed the case, but again the young man did not have an interpreter or lawyer to help him. When he was taken to the airport for deportation, he pleaded with INS officials not to deport him. His pleas were ignored and three detention guards carried him onto the plane. The airline employees subsequently asked the guards to take him off the plane and he was returned to the detention facility. Finally, the INS reversed its decision and decided his fear was credible, but only after this young man begged not to be sent home for fear he would be killed. His case vividly demonstrates the failure of some INS officials to follow the procedures set forth in the regulations.

Congress must act to end these abuses. Our bill is intended to accomplish this goal. It limits expedited removal to immigration emergencies. It offers protection to persons arriving without proper documents, who will now be referred to an immigration judge to have their case reviewed, rather than have their fate determined by a low-level INS employee who has not been trained in asylum issues.

If an individual indicates an intention to apply for asylum or a credible fear of persecution, the immigration officer must refer the individual to an asylum officer for an interview. The bill limits the existing broad authority of immigration officers and permits persons to seek review of their case by an asylum officer who is trained in determining whether a person's expression of fear is credible. The individual must be given written information, in a language the individual understands, about the consequences of his decisions, the availability of review of his case and his ability to have counsel. After the interview with the asylum officer, the individual may have the case reviewed by an immigration judge. During this review, the individual will have the opportunity to be heard and represented by counsel, at no expense to the government.

Currently, asylum seekers who request asylum are often subject to mandatory detention. They are held in INS detention centers or state and county jails, often with criminal inmates, and

often for weeks, months or even years. They have little access to legal representation, health care, or contact with family, friends or clergy who can assist them. Such conditions are extremely traumatizing for those who have already suffered so much.

Under our proposal, the general policy will be to parole asylum seekers who establish a credible fear of persecution, not place them in mandatory detention. Asylum seekers could be released to family, friends or community groups who are ready to assist them. These alternatives to detention have been tested at various sites, and they are cost-effective and have been successful in achieving the goal of providing a safe, compassionate residence, offering services, and increasing compliance with INS procedures and court proceedings.

In addition, those persons who remain in INS detention must be kept safe and treated humanely. I commend the INS for issuing detention standards to accomplish this goal, but the guidelines are not binding. Our proposal would codify the most important guidelines to ensure that all persons in detention are safe and treated with dignity. The bill requires that persons in detention have access to legal services, visits by persons who are able to lend assistance in the preparation of their cases, and access to legal resources, telephones and religious services. Other protections would be guaranteed by the legislation as well.

Our bill also authorizes the establishment of group legal orientation programs, to identify persons with meritorious claims for relief and refer them to counsel at no cost to the government. These programs save the government money by improving the efficiency of the judicial process and by reducing the need for prolonged detention. They educate persons about their rights, options and likelihood of success. The bill also creates a national center to provide training for nonprofit agencies that offer such programs, to consult with nonprofit groups on program development and substantive legal issues, and to develop standards for such programs.

Finally, our proposal deals with two other important concerns. In 1996, Congress enacted a law requiring, for the first time, that persons seeking asylum must apply within a year of their arrival in the U.S. Since the enactment of this deadline, more than 10,000 asylum seekers have had their claims rejected by the INS. Many of these individuals did not file their claims, because they were unfamiliar with our legal system and did not know they are required to file a timely application.

Asylum seekers should be able to apply for protection, regardless of when they file their claims. Our bill will eliminate the one-year deadline, thereby preserving the ability of persons seeking refuge to be granted safe haven without regard to the timing of their application. This provision will offer much-needed protection to persons who have fled their home countries out of fear and terror.

Immigration law also currently places a cap of 10,000 on the number of persons granted asylum whose status can be adjusted to lawful permanent resident each fiscal year, regardless of the number of persons granted asylum in that year. Because the number of persons granted asylum each year exceeds 10,000, the cap has created a large backlog. The INS estimates that a backlog of 57,000 asylees is awaiting adjustment. This delay causes significant hardship to deserving individuals and their families. Our bill will eliminate the arbitrary cap of 10,000 and permit eligible persons to adjust their status without waiting up to six years, as may occur under current law.

Clearly, we need to improve the treatment of those who arrive on our shores seeking asylum and awaiting adjudication of their claims and adjustment of their status. I urge my colleagues to support the Refugee Protection Act of 2001. It is a vital piece of legislation that is long overdue.

By Mr. NELSON of Florida:

S. 1312. A bill to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach, Florida, for possible inclusion in the National Park System; to the Committee on Energy and Natural Resources.

Mr. NELSON of Florida. Madam President, I am proud to introduce the Virginia Key Beach Resource Study Bill. Congresswoman Carrie Meek has introduced the companion to this legislation in the House of Representatives. This bill authorizes the Secretary of Interior to conduct a special resource study of Virginia Key Beach, FL, for inclusion in the National Park System.

Based solely on its natural attributes, Virginia Key is worthy of inclusion. Situated just off the mainland of the City of Miami, between Key Biscayne to the south and Fisher Island to the north, Virginia Key is a 1,000-acre barrier island, characterized by a unique and sensitive natural environment. The island is non-residential and includes ponds and waterways, a tropical hardwood hammock and a large wildlife conservation area.

Virginia Key Beach deserves national distinction for another reason. Its unique history teaches us about our Nation's progress toward achieving racial justice. For decades in South Florida, beaches were segregated by race. As the only beach in Miami that permitted blacks from the 1940s to the 1960s, Virginia Key was a source of seaside recreation for countless African-American families. Virginia Key also was the site for many baptisms and religious services. Thus, Virginia Key's value to our Nation, and to Florida, should be recognized both for its natural beauty and its role in the Nation's ongoing struggle for equality and social justice.

By Mr. KENNEDY (for himself, Mr. DODD, and Mr. WELLSTONE):

S. 1313. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, and for other purposes; to the Committee on the Judiciary.

Mr. KENNEDY. Madam President, it is a privilege to join my colleagues in introducing the ''H–2A Reform and Agricultural Worker Adjustment Act of 2001.''

The Nation needs and deserves an agricultural policy that protects farm workers, provides hard-working foreign-born workers with the opportunity to become legal permanent residents, and provides the growers of fruits, vegetables and other commodities with an adequate and legal labor supply. Our bill works toward achieving this goal. It establishes a legalization program for foreign-born farm workers, guarantees certain labor protections for all farm workers, and improves wages and working conditions.

We cannot continue to ignore the fact that large numbers of the persons employed in agriculture today are undocumented. Illegal workers are at the mercy of unscrupulous employers, who can get away with paying them very low wages, exposing them to dangerous working conditions, lowering the wages for all farm workers.

Agricultural workers are indispensable members of the workforce. We need an agricultural policy that recognizes their contributions and rewards their work. Under our bill, 500,000 farm workers currently working in the United States, without employment authorization, would be able to adjust their status to legal permanent resident. Persons who work in agriculture for at least 90 days would be able to obtain temporary residency status and would be able to adjust their status to legal permanent residency after working 90 days in three out of the next four years in agriculture. Because agricultural work is seasonal and varies throughout the United States, workers would be permitted to change employers and accept non-agricultural work to supplement their incomes during this period.

These changes will benefit both workers and growers. It will benefit all farm workers by improving wages and working conditions. It will provide a means for foreign-born workers to become permanent residents. By obtaining legal status, workers will no longer be forced to endure substandard wages and working conditions for fear of being deported.

Agriculture is a time-sensitive industry. Growers must have an immediate, reliable and legal workforce at harvest time. Everyone is harmed when crops rot in the field for lack of a labor force. By these changes, growers will have access to dependable, hard-working employees and a workforce that will not be suddenly reduced by INS raids.

Our bill also keeps families together. Immediate family members would be granted legal status at the beginning, and they would be eligible for adjustment to permanent resident status after the worker completes the work requirement. This change will keep hard-working persons and their families together.

Our proposal also offers labor protections to agricultural workers that are long overdue. For example, farm workers could not be fired from agricultural employment except for just cause, and they would receive credit for any day lost because of on-the-job injuries.

Agriculture is a thriving industry, generating billions of dollars in revenue each year. Yet farm workers are among the lowest-paid members of the workforce. Three-quarters of all farm workers earn less than $10,000 a year. Over three-fifths of farm worker households live in poverty. Only half of farm workers own a car, and even fewer own a home or even a trailer. To improve the wages and working conditions of all agricultural workers, we must give them the basic labor rights available to other U.S. workers.

Central to our bill is the belief that collective bargaining provides the best way to improve wages and working conditions, and stabilize the agricultural labor market. The bill creates a Federal right for farm workers to organize, provides incentives for H–2A employers to accept collective bargaining, establishes a streamlined application process for employers with collective bargaining agreements, and exempts H–2A employers with such agreements from increased H–2A user fees. The bill also prohibits the use of H–2A workers as strikebreakers. These procedures will secure improved wages and working conditions for all agricultural workers, and protect workers from unfair wages by maintaining wage standards.

The bill ends discrimination against H–2A workers by giving them, for the first time, the same labor protections as U.S. workers. It gives guest workers the same labor rights as U.S. workers, by ending the unfair exclusion of H–2A workers from coverage under the Migrant and Seasonal Agricultural Worker Protection Act. Coverage under that Act means that H–2A workers will have the right to bring a private action to enforce working arrangements with their employers, rather than depend on the Department of Labor to protect their rights.

The bill also protects U.S. workers by removing the incentive to discriminate against them by requiring the employers of H–2A workers to pay the equivalent FICA and FUTA taxes to a new fund. The money from the fund will be used to improve labor management practices to enhance the productivity of the existing labor force and to support demonstration projects to improve farm labor management, including projects on recruitment, workplace literacy and training, health and safety, and the development of labor-saving technology.

Last year, bipartisan negotiations between the House and Senate resulted in an agreement on migrant agricultural workers that both the agricultural employers and the farm workers supported. The compromise created an earned adjustment program for undocumented farm workers and a reformed H–2A temporary worker program. This compromise represented a positive step toward much needed reform. Unfortunately, efforts to enact this agreement failed but I hope we will succeed in this Congress.

I urge my colleagues to support the H–2A Reform and Agricultural Worker Adjustment Act of 2001. These reforms are long overdue, and will improve the lives and working conditions of dedicated, hard-working farm workers.

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

S. 1315. A bill to make improvements in title 18, United States Code, and safeguard the integrity of the criminal justice system; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I am pleased to introduce today, with my good friend from Utah, Senator HATCH, the Judicial Improvement and Integrity Act of 2001. I would like to thank Senator HATCH for his co-sponsorship of this measure. This effort builds on other legislation that Senator HATCH and I have worked on together to improve the criminal justice system, including, in this Congress alone, the Drug Abuse Education, Prevention and Treatment Act, S. 304, and the Children's Confinement Conditions Improvement Act, S. 1174.

This bill would improve the criminal code and safeguard the integrity of the judicial system. It would protect witnesses who come forward to provide information on criminal activity to law enforcement officials; eliminate a loophole in the criminal contempt statute that allows some defendants to avoid serving prison sentences imposed by the Court; eliminate a loophole in the statute of limitations that makes some defendants immune from further prosecution if they get their plea agreements vacated; grant the government the clear right to appeal the dismissal of a part of a count of an indictment, such as a predicate act in a RICO count; insure that courts may impose appropriate terms of supervised release in drug cases; give the District Courts greater flexibility in fashioning appropriate conditions of release for certain elderly prisoners; and clarify the District Court's authority to revoke or modify a term of supervised release when the defendant willfully violates the obligation to pay restitution to the victims of the defendant's crime.

Section two of the bill would amend title 18, United States Code, Section 1512, which prohibits attempts to tamper with witnesses, victims and informants. The statute currently provides that, if the offense involves murder or attempted murder, the maximum sentence is 20 years. If the defendant uses intimidation, physical force, threats or corrupt persuasion, the maximum is 10 years. The bill would increase the statutory maximum sentence for offenses involving the use or attempted use of physical force to 20 years. This change recognizes that the use or attempted use of physical force to tamper with a witness is closely related to attempted murder and that this fact should be reflected in the applicable penalty. For example, if the defendant severely beats the witness, causing serious bodily injury, the offense is arguably as serious as attempted murder, even if the government cannot prove that the defendant intended to kill the witness. It is therefore appropriate that the defendant face a potential 20-year sentence. The bill would also add a conspiracy provision that would make the maximum penalty for conspiring to tamper with a witness in violation of section 1512 or to retaliate against a witness in violation of title 18, United States Code, Section 1513 the same as that for the underlying substantive offense that was the object of the conspiracy. A similar provision was part of the Hatch-Leahy Juvenile Justice legislation, S. 254, which passed the Senate in 1999 but did not emerge from Conference.

The third section of the bill would close a loophole in title 18, United States Code, section 401, which contains penalties for criminal contempt of court. This statute provides that a court may punish contempt by a fine ''or'' imprisonment. Courts have held that this language permits the imposition of either a fine or a term of imprisonment, but not both. This limitation on sentencing is highly unusual, since virtually all criminal statutes permit both a fine and imprisonment. More importantly, it creates the potential for an enormous, unjust windfall for defendants in cases where the court fails to notice the peculiar language of the statute and mistakenly imposes both a fine and imprisonment. In such cases, the defendant can simply pay the fine and then appeal the prison sentence as illegal. Surprisingly, courts have held that, once the fine is paid, the case can no longer be remanded to the district court to have the sentence corrected because the defendant has served the sentence. Thus, the only option is to vacate the prison term and set defendant free. See In re Bradley, 318 U.S. 50 (1943). Courts have continued to follow this rule even after the passage of title 18, United States Code, section 3551(b) as part of the Sentencing Reform Act, which generally permits a court to impose a fine in addition to any other sentence. See United States v. Versaglio, 85 F.3d 943, 946–47 (2d Cir. 1996); United States v. Holloway, 991 F.2d 370, 373 (7th Cir. 1993).

It is time for Congress to correct this recurring problem. It is unjust to permit a defendant to go free without any

serving time in prison simply because the judge made an obvious and easily-correctable mistake in imposing sentence. Moreover, there is no good reason to limit courts to only one sentencing option in criminal contempt cases. Allowing the imposition of both a fine and imprisonment should not result in harsher sentences; if anything, defendants may benefit because courts may choose to impose a fine and a shorter prison sentence instead of a longer prison sentence. The second section of our bill would therefore amend section 401 to allow the court to impose both a fine and imprisonment for criminal contempt. It would make similar changes on a handful of other statutes that contain language similar to section 401: sections 1705, 1916, 2234, and 2235, of title 18 and in section 636 of title 28 of the United States Code.

The fourth section of the bill would add a new provision extending the statute of limitations for counts that are dismissed pursuant to a plea bargain. This would also close a loophole that exists under current law, which is illustrated by United States v. Podde, 105 F.3d 813 (2d Cir. 1995). In that case, a defendant who was charged with fraud pled guilty to a lesser offense pursuant to a plea agreement, and the fraud charges were dismissed. Later, however, the defendant was able to get his guilty plea set aside based upon a new Supreme Court decision. The district court then granted the government's motion to reinstate the original fraud charges, and the defendant went to trial and was convicted. On appeal, however, the court of appeals vacated the defendant's conviction based upon the statute of limitations. The court ruled that the fraud indictment could not be reinstated because the statute of limitations for the fraud charges had expired before the defendant's guilty plea was vacated. The Third Circuit reached the same result on similar facts in United States v. Midgley, 142 F.3d 174, 178–80 (3d Cir. 1998). Under these decisions, the defendants could no longer be prosecuted for any offense, even though the government had brought the case within the limitations period and pursued it diligently. Our provision would prevent such unjust results in the future by allowing the government 60 days to move to reinstate the dismissed counts after the order vacating the defendant's guilty plea becomes final. This approach is similar to that of 18 U.S.C. § 3288, which gives the government a grace period to obtain a new indictment where counts are dismissed after the statute of limitations has expired.

The fifth section of the bill would amend title 18, United States Code, section 3731, which permits the United States to appeal certain orders of the District Court to the appropriate Court of Appeals. It would clarify that the government is allowed to appeal the dismissal of a part of a count, such as an overt act in a conspiracy count or a predicate act in a RICO count. This approach is consistent with the Supreme Court's observation that section 3731 permits ''an appeal from an order dismissing only a portion of a count.'' Sanabria v. United States, 437 U.S. 54, 69 n.23 (1978). The majority of Federal circuits already interpret section 3731 to permit this where the portion of the count that is dismissed could itself constitute a ''discrete basis of liability.'' See United States v. Mobley, 193 F.3d 492, 495, 7th Cir. 1999; United States v. Levasseur, 846 F.2d 786, 1st Cir. 1988. However, one federal circuit has held that section 3731 does not permit any government appeal from the dismissal of only part of a count. See United States v. Louisiana Pacific Corporation, 106 F.3d 345, 10th Cir. 1997. In other cases, appellate review of orders dismissing predicate acts or overt acts has been denied where the dismissed acts could not themselves have been charged in separate counts. See United States v. Terry, 5 F.3d 874, 5th Cir. 1993; United States v. Tom, 787 F.2d 65, 2d Cir. 1986. It is time to resolve these conflicting results definitively. The reach of section 3731 should clearly be extended to orders dismissing portions of counts. In some cases, the dismissal of an overt act or a predicate act may significantly impair the government's ability to prove its case. Defendants, of course, may get appellate review of the denial of a motion to dismiss part of a count after the trial if they are convicted. The government should also be able to appeal when such motions are granted, and it has no way of doing so other than through section 3731.

Section six of the bill would resolve a conflict in the circuits as to the permissible length of supervised release in controlled substances cases. Under 18 U.S.C. 3583(b), ''[e]xcept as otherwise provided,'' the maximum authorized terms of supervised release are 5 years for Class A and B felonies, 3 years for Class C and D felonies, and 1 year for Class E felonies and certain misdemeanors. The drug trafficking offenses in 21 U.S.C. §§ 841 and 960 prescribe special supervised release terms, however, that are longer than those applicable generally under section 3583(b). Those longer terms, which may include lifetime supervised release, were enacted in 1986 in the same Act that inserted the introductory phrase ''Except as otherwise provided'' in section 3583(b). Because of this clear legislative history and intent, three courts of appeals have held that section 3583(b) does not limit the length of supervised release that may be imposed for a violation of 21 U.S.C. §§ 841 or 960 when a greater term is there provided. United States v. LeMay, 952 F.2d 995, 998 (8th Cir. 1991); United States v. Eng, 14 F.3d 165, 172–3 (2d Cir. 1994); United States v. Garcia, 112 F.3d 395 (9th Cir. 1997). Two courts of appeals, however, have reached the opposite result, holding that the length of a supervised release term that can be imposed for controlled substance cases is limited by 18 U.S.C. 3583(b). United States v. Gracia, 983 F.2d 625, 630 (5th Cir. 1993); United States v. Kelly, 974 F.2d 22, 24–5 (5th Cir. 1992); United States v. Good, 25 F.3d 218 (4th Cir. 1994). Although the issue has not arisen with frequency, the conflict is entrenched and should be dealt with definitively. Accordingly, the amendment would add the words ''Notwithstanding section 3583 of title 18'' to the title 21 controlled substance offenses in the parts of those statutes dealing with supervised release to make clear that the longer terms there prescribed control over the general provision in section 3583.

Section seven of the bill would confer express authority on District Courts under 18 U.S.C. § 3582(c)(1)(A), when exercising the power to reduce a term of imprisonment for extraordinary and compelling reasons, to impose a sentence of probation or supervised release with or without conditions. Such added flexibility is consistent with the purposes for which this statute was designed and will likely facilitate its use in appropriate cases. Under section 3582(c)(l)(A), a court is authorized, on motion of the Bureau of Prisons and consistent with the purposes of sentencing in 18 U.S.C. § 3553, to ''reduce the term of imprisonment'' upon a finding that ''extraordinary and compelling reasons'' warrant such a reduction. This limited authority has been generally utilized when a defendant sentenced to imprisonment becomes terminally ill or develops a permanently incapacitating illness not present at the time of sentencing. In such circumstances, the situation of a prisoner (e.g., one suffering from a contagious debilitating disease), may make a court reluctant simply to release the prisoner back into society unless another sentencing option such as home confinement as a condition of supervised release or probation can be imposed. Presently, however, it is doubtful whether a court can order such a sentence since section 3582(c)(1)(A) speaks only in terms of reducing ''the term of imprisonment,'' not imposing in its stead a lesser type of sentence. Compare Fed. R. Crim. P 35(b), which gives a court the power to ''reduce a sentence'' to reflect substantial assistance.

Finally, section eight would remedy a statutory ambiguity relating to restitution as a condition of supervised release. Under 18 U.S.C. § 3583(c) and (e), the court is authorized to consider various sentencing factors set forth in 18 U.S.C. § 3553 as a basis for imposing restitution as a condition of supervised release or for revoking or modifying the conditions of supervised release. Supervised release is among the purposes of sentencing enumerated in section 3553, in paragraph (a)(7), but is not among the factors enumerated in section 3583(c) and (e). However, 18 U.S.C. § 3583(c) also authorizes the court to impose any condition of supervised release that is an authorized condition of probation under 18 U.S.C. § 3563(b), and making restitution is among those conditions (see section 3564(b)(2)). Thus, it

appears clear that a court has authority to impose a restitution condition upon a term of supervised release. See, e.g., United States v. Payan, 992 F.2d 1387, 1395–96 (5th Cir. 1993). But the absence of a reference to section 3553(a)(7) in the revocation subsection of section 3583 raises a question whether, even though it is an authorized condition of supervised release, a court has authority to revoke or modify the term for the willful failure to make restitution. This amendment would provide a reference to section 3553(a)(7) in the supervised release statute and remove any ambiguity in this regard. Of course, even under the amended statute, a court could not revoke or modify the defendant's supervised release for failure to pay restitution unless the defendant had the resources to pay and willfully refused to do so. See Bearden v. Georgia, 461 U.S. 660 (1983); Payan, 992 F.2d at 1396–97.

For all of these reasons, I am pleased to introduce this legislation along with Senator HATCH, and I urge its swift enactment into law.

By Mr. MURKOWSKI:

S. 1318. A bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Madam President, I rise today, to introduce the Conservation and Reinvestment Act of 2001. The bill is identical to a bill I introduced at the start of the 106th Congress. This important legislation remedies a tremendous inequity in the distribution of revenues generated by offshore oil and gas production. It allocates a portion of those moneys to the coastal States and communities who shoulder the responsibility for energy development activity off their coastlines. It also provides a secure funding source for state recreation and wildlife conservation programs.

By reinvesting revenues from offshore oil and gas production into a variety of important conservation, recreation and environmental programs, this bill will rededicate the Federal Government to a partnership with state and local governments to meet the demands of all Americans for outdoor experiences. In addition, it reaffirms the original promise of the Land Water Conservation Fund that a portion of the revenues obtained by the Federal Government from the development of our natural resources would be reinvested into the outdoor recreation and natural resource estate of the Nation.

Like last Congress, this bill is the start of a process. As many of us in this chamber remember, consideration of OCS revenue sharing legislation during the 106th Congress resulted in an outcome none of us could have anticipated, the creation of a 6 year budget category that dedicates appropriated funds for a variety of conservation programs. Enactment of the Conservation Spending Category was one of the great bipartisan achievements of the 106th Congress and was an important step in providing annual funding for a number of programs that protect our nation's natural and cultural legacy.

However, coastal impact assistance was not included. While the coastal States that support offshore oil and gas activities received some funding last year, they were specifically excluded from the Conservation Spending Category and no money has been appropriated this Congress.

This bill directs that 27 percent of the revenues generated from oil and natural gas production on the Outer Continental Shelf, or OCS, be returned to coastal States and communities. Offshore oil and gas production generates over $4 billion in revenues annually for the U.S. Treasury. Yet, unlike mineral receipts from onshore Federal lands, OCS oil and gas revenues are not directly returned to the States in which production occurs and which bear the burdens of such activity.

This legislation remedies this disparity. States and communities that bear the responsibilities for and costs associated with offshore oil and gas production will finally receive some assistance from the revenues generated by this federal activity. This legislation would share revenues generated by OCS oil and gas activities with counties, parishes and boroughs, the local government entities most directly affected, and State governments.

The bill also acknowledges that all coastal States, including those States bordering the Great Lakes, have unique needs. It directs that a portion of OCS revenues be shared with these States, even if no OCS production occurs off their coasts. Coastal States and communities can use OCS Impact Assistance funds on everything from environmental programs, to coastal and marine conservation efforts, to new infrastructure requirements.

This is a true investment in the future. This money will be used, day-in and day-out, to improve the quality of life of coastal State residents.

Let me also remind everyone that OCS production only occurs off the coasts of 6 States, yet the bill shares OCS revenues with 34 States. There are 28 coastal States that will get a share of OCS revenues which have no OCS production. In fact, in all areas except the Gulf of Mexico and Alaska there is a moratorium prohibiting any new OCS production.

The OCS accounts for 24 percent of this Nation's natural gas production and 14 percent of its oil production. We need to ensure that the OCS continues to meet our future domestic energy needs. I firmly believe that the Federal Government needs to do all it can to pursue and encourage further technological advances in OCS exploration and production. These technological achievements will continue to result in new OCS production having an unparalleled record of excellence on environmental and safety issues. Additional technological advances will further improve resource recovery and will increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by OCS money.

I will do all I can to ensure a healthy OCS program, including new OCS development in the Arctic. A number of challenges face new developments in this area, I am confident that we can work through them all. History has shown us that in the Arctic, and in other OCS areas, development and the environmental protection are compatible.

This bill also takes a portion of the revenues received by the Federal Government from OCS development and invests it in conservation and wildlife programs. Thus, Titles II and III of the bill share OCS revenues will ALL States for these purposes. Title II of this bill provides a secure source of funding for the Land and Water Conservation Fund, LWCF. The LWCF was established over three decades ago to provide Federal money for State and Federal land acquisition and help meet recreation needs. Title III of this bill provides funding for State fish and wildlife conservation programs. The money would be distributed through the Pittman-Robertson program administered by the United States Fish and Wildlife Service. This money could be used for both game and non-game wildlife. With the inclusion of OCS revenues, the amount of money available for state fish and game programs would nearly double. States will be able to use these moneys to increase fish and wildlife populations and improve fish and wildlife habitat.

This bill is not perfect but it is a step to ensuring not only that Coastal States have money to address the effects of OCS-activities but that all States have funds necessary to provide outdoor recreation and conservation resources for all of us to enjoy.

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

S. 1319. A bill to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I am pleased to introduce the 21st Century Department of Justice Appropriations Authorization Act. I thank Senator HATCH, the Ranking Republican Member of the Judiciary Committee, for his hard work and support of this legislation.

The last time Congress properly authorized spending for the entire Department of Justice, ''DOJ'' or the

''Department'', was in 1979. Congress extended that authorization in 1980 and 1981. Since then, Congress has not passed nor has the President signed an authorization bill for the Department. In fact, there are a number of years where Congress failed to consider any Department authorization bill. This 21-year failure to properly reauthorize the Department has forced the appropriations committees in both houses to reauthorize and appropriate money.

We have ceded the authorization power to the appropriators for too long. Our bipartisan legislation is an attempt to reaffirm the authorizing authority and responsibility of the House and Senate Judiciary Committees. I commend Chairman SENSENBRENNER and Ranking Member CONYERS of the House Judiciary Committee for working in a bipartisan manner to pass similar legislation in the House of Representatives.

The ''21st Century Department of Justice Appropriations Authorization Act,'' is a comprehensive authorization of the Department based on H.R. 2215 as passed by the House of Representatives on July 23, 2001. Our bipartisan legislation contains four titles which authorize appropriations for the Department for fiscal year 2002, provide permanent enabling authorities which will allow the Department to efficiently carry out its mission, clarify and harmonize existing statutory authority, and repeal obsolete statutory authorities. The bill establishes certain reporting requirements and other mechanisms, such as DOJ Inspector General authority to investigate allegations of misconduct by employees of the Federal Bureau of Investigation (FBI), intended to better enable the Congress and the Department to oversee the operations of the Department. Finally, the bill creates a separate Violence Against Women Office to combat domestic violence.

Title I authorizes appropriations for the major components of the Department for fiscal year 2002. The authorization mirrors the President's request regarding the Department except in two areas. First, the bill increased the President's request for the DOJ Inspector General by $10 million. This is necessary because the Committee is concerned about the severe downsizing of that office and the need for oversight, particularly of the FBI, at the Department. Second, the bill authorizes at least $10 million for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft, NET, Act, Public Law 105–147. The American copyright industry is the largest exporter of goods from the United States, employing more than 7 million Americans, and these additional funds are needed to strengthen the resources available to DOJ and the FBI to investigate and prosecute cyberpiracy.

The bill does not contain an authorization for appropriations for several unauthorized grant programs. Senator HATCH and I have decided to review each of these expired programs and authorize them as needed.

In addition, Title I authorizes $9 million in FY 2002 to add an additional Assistant United States Attorney in each of the 94 U.S. Attorney Offices to implement part of the Administration's Project Safe Neighborhoods proposal to reduce school gun violence across the nation. These prosecutors will assist in targeting juveniles who obtain weapons and commit violent crimes, as well as the adults who place firearms in the hands of juveniles.

Title II permanently establishes a clear set of authorities that the Department may rely on to use appropriated funds, including establishing permitted uses of appropriated funds by the Attorney General for Fees and Expenses of Witnesses, the FBI, the Immigration and Naturalization Service, the Federal Prison System, and the Detention Trustee. Title II also establishes new reporting requirements which are intended to enhance Congressional oversight of the Department, including new reporting requirements for information about the enforcement of existing laws, for information regarding the Office of Justice Programs, OJP, and the submission of other reports, required by existing law, to the House and Senate Judiciary Committees. Section 206(e) expands an existing reporting requirement regarding copyright infringement cases. Title II also establishes a counterterrorism fund and provides the Attorney General with additional authority to strengthen law enforcement operations.

Title III repeals outdated and open-ended statutes, requires the submission of an annual authorization bill to the House and Senate Judiciary Committees, and provides states with flexibility to use existing Truth-In-Sentencing and Violent Offender Incarceration Grants to account for juveniles being housed in adult prison facilities. Title III requires the Department to submit to Congress studies on untested rape examination kits, and the allocation of funds, personnel, and workloads for each office of U.S. Attorney and each division of the Department.

Section 305 requires the Attorney General and Director of the FBI to provide the House and Senate Judiciary Committees with a detailed report on the use of DCS 1000, also known as Carnivore, and other similar Internet surveillance systems. Many have raised legitimate privacy concerns with Carnivore. Congress needs to know the facts about Carnivore to find a way to balance the needs of law enforcement investigators with the privacy interests of all Americans.

In addition, Title III provides new oversight and reporting requirements for the FBI and other activities conducted by the Justice Department. Specifically, section 308 codifies the Attorney General's order of July 11, 2001, which revised Department of Justice's regulations concerning the Inspector General. The section insures that the Inspector General for the Department of Justice has the authority to decide whether a particular allegation of misconduct by Department of Justice personnel, including employees of the Federal Bureau of Investigation and the Drug Enforcement Administration, should be investigated by the Inspector General or by the internal affairs unit of the appropriate component of the Department of Justice.

Section 309 requires the Attorney General to submit a report and recommendation to the House and Senate Committees on the Judiciary not later than 90 days after enactment of this Act on whether there should be established an office of Inspector General for the FBI or an office of Deputy Inspector General for the FBI that would be responsible for supervising independent oversight of programs and operations of the FBI.

Title IV establishes a Violence Against Women Office (VAWO) within the Justice Department. The VAWO is headed by a Director, who is appointed by the President and confirmed by the Senate. In addition, Title IV enumerates duties and responsibilities of the Director, requires the Attorney General to ensure VAWO is adequately staffed and authorizes appropriations for the VAWO.

I look forward to working with Senator HATCH, Congressman SENSENBRENNER and Congressman CONYERS to bring the important business of re-authorizing the Department back before the Senate and House Judiciary Committees. Clearly, regular reauthorization of the Department should be part and parcel of the Committees' traditional role in overseeing the Department's activities. Swift passage into law of the ''21st Century Department of Justice Appropriations Authorization Act'' will be a significant step toward restoring our oversight role.

I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill be printed in the RECORD.

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

S. 1319

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''21st Century Department of Justice Appropriations Authorization Act''.

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

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

SEC. 101. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED.

There are authorized to be appropriated for fiscal year 2002, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $93,433,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $178,499,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $55,000,000, which shall include for each such fiscal year, not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $566,822,000, which shall include for each such fiscal year—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147); and

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $140,973,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,346,289,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $3,507,109,000, which shall include for each such fiscal year—

(A) not to exceed $1,250,000 for construction, to remain available until expended; and

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $626,439,000, which shall include for each such fiscal year not to exceed $6,621,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,662,710,000.

(10) FEDERAL PRISONER DETENTION.—For the support of United States prisoners in non-Federal institutions, as authorized by section 4013(a) of title 18 of the United States Code: $724,682,000, to remain available until expended.

(11) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,480,929,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(12) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: $3,516,411,000, which shall include—

(A) not to exceed $2,737,341,000 for salaries and expenses of enforcement and border affairs (i.e., the Border Patrol, deportation, intelligence, investigations, and inspection programs, and the detention program);

(B) not to exceed $650,660,000 for salaries and expenses of citizenship and benefits (i.e., programs not included under subparagraph (A));

(C) for each such fiscal year, not to exceed $128,410,000 for construction, to remain available until expended; and

(D) not to exceed $50,000 to meet unforeseen emergencies of a confidential character.

(13) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed $6,000,000 for construction of protected witness safesites.

(14) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $338,106,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(15) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,130,000.

(16) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $9,269,000.

(17) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(18) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $10,862,000.

(19) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,718,000.

(20) JOINT AUTOMATED BOOKING SYSTEM.—For expenses necessary for the operation of the Joint Automated Booking System: $15,957,000.

(21) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $104,606,000.

(22) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: $1,996,000.

(23) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: $4,989,000.

(24) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: $116,369,000.

SEC. 102. APPOINTMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS; REDUCTION OF CERTAIN LITIGATION POSITIONS.

(a) APPOINTMENTS.—Not later than September 30, 2003, the Attorney General may exercise authority under section 542 of title 28, United States Code, to appoint 200 assistant United States attorneys in addition to the number of assistant United States attorneys serving on the date of the enactment of this Act.

(b) SELECTION OF APPOINTEES.—Individuals first appointed under subsection (a) may be appointed from among attorneys who are incumbents of 200 full-time litigation positions in divisions of the Department of Justice and whose official duty station is at the seat of Government.

(c) TERMINATION OF POSITIONS.—Each of the 200 litigation positions that become vacant by reason of an appointment made in accordance with subsections (a) and (b) shall be terminated at the time the vacancy arises.

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

SEC. 103. AUTHORIZATION FOR ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS FOR PROJECT SAFE NEIGHBORHOODS.

(a) IN GENERAL.—The Attorney General shall establish a program for each United States Attorney to provide for coordination with State and local law enforcement officials in the identification and prosecution of violations of Federal firearms laws including school gun violence and juvenile gun offenses.

(b) AUTHORIZATION FOR HIRING 94 ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS.—There are authorized to be appropriated to carry out this section $9,000,000 for fiscal year 2002 to hire an additional Assistant United States Attorney in each United States Attorney Office.

TITLE II—PERMANENT ENABLING PROVISIONS

SEC. 201. PERMANENT AUTHORITY.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

''§ 530C. Authority to use available funds

''(a) IN GENERAL.—Except to the extent provided otherwise by law, the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) may, in the reasonable discretion of the Attorney General, be carried out through any means, including—

''(1) through the Department's own personnel, acting within, from, or through the Department itself;

''(2) by sending or receiving details of personnel to other branches or agencies of the Federal Government, on a reimbursable, partially-reimbursable, or nonreimbursable basis;

''(3) through reimbursable agreements with other Federal agencies for work, materials, or equipment;

''(4) through contracts, grants, or cooperative agreements with non-Federal parties; and

''(5) as provided in subsection (b), in section 524, and in any other provision of law consistent herewith, including, without limitation, section 102(b) of Public Law 102–395 (106 Stat. 1838), as incorporated by section 815(d) of Public Law 104–132 (110 Stat. 1315).

''(b) PERMITTED USES.—

''(1) GENERAL PERMITTED USES.—Funds available to the Attorney General (i.e., all funds available to carry out the activities described in subsection (a)) may be used, without limitation, for the following:

''(A) The purchase, lease, maintenance, and operation of passenger motor vehicles, or police-type motor vehicles for law enforcement purposes, without regard to general purchase price limitation for the then-current fiscal year.

''(B) The purchase of insurance for motor vehicles, boats, and aircraft operated in official Government business in foreign countries.

''(C) Services of experts and consultants, including private counsel, as authorized by section 3109 of title 5, and at rates of pay for individuals not to exceed the maximum daily rate payable from time to time under section 5332 of title 5.

''(D) Official reception and representation expenses (i.e., official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions, but excluding expenses of public tours of facilities of the Department of Justice), in accordance with distributions and procedures established, and rules issued, by the Attorney General, and expenses of public tours of facilities of the Department of Justice.

''(E) Unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General.

''(F) Miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration.

''(G) In accordance with procedures established and rules issued by the Attorney General—

''(i) attendance at meetings and seminars;

''(ii) conferences and training; and

''(iii) advances of public moneys under section 3324 of title 31: *Provided*, That travel advances of such moneys to law enforcement personnel engaged in undercover activity shall be considered to be public money for purposes of section 3527 of title 31.

''(H) Contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

''(I) Payment of interpreters and translators who are not citizens of the United States, in accordance with procedures established and rules issued by the Attorney General.

''(J) Expenses or allowances for uniforms as authorized by section 5901 of title 5, but without regard to the general purchase price limitation for the then-current fiscal year.

''(K) Expenses of—

''(i) primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

''(ii) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

''(2) SPECIFIC PERMITTED USES.—

''(A) AIRCRAFT AND BOATS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for the purchase, lease, maintenance, and operation of aircraft and boats, for law enforcement purposes.

''(B) PURCHASE OF AMMUNITION AND FIREARMS; FIREARMS COMPETITIONS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, for the Federal Prison System, for the Office of the Inspector General, and for the Immigration and Naturalization Service may be used for—

''(i) the purchase of ammunition and firearms; and

''(ii) participation in firearms competitions.

''(C) CONSTRUCTION.—Funds available to the Attorney General for construction may be used for expenses of planning, designing, acquiring, building, constructing, activating, renovating, converting, expanding, extending, remodeling, equipping, repairing, or maintaining buildings or facilities, including the expenses of acquisition of sites therefor, and all necessary expenses incident or related thereto; but the foregoing shall not be construed to mean that funds generally available for salaries and expenses are not also available for certain incidental or minor construction, activation, remodeling, maintenance, and other related construction costs.

''(3) FEES AND EXPENSES OF WITNESSES.—Funds available to the Attorney General for fees and expenses of witnesses may be used for—

''(A) expenses, mileage, compensation, protection, and per diem in lieu of subsistence, of witnesses (including advances of public money) and as authorized by section 1821 or other law, except that no witness may be paid more than 1 attendance fee for any 1 calendar day;

''(B) fees and expenses of neutrals in alternative dispute resolution proceedings, where the Department of Justice is a party; and

''(C) construction of protected witness safesites.

''(4) FEDERAL BUREAU OF INVESTIGATION.—Funds available to the Attorney General for the Federal Bureau of Investigation for the detection, investigation, and prosecution of crimes against the United States may be used for the conduct of all its authorized activities.

''(5) IMMIGRATION AND NATURALIZATION SERVICE.—Funds available to the Attorney General for the Immigration and Naturalization Service may be used for—

''(A) acquisition of land as sites for enforcement fences, and construction incident to such fences;

''(B) cash advances to aliens for meals and lodging en route;

''(C) refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; and

''(D) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies.

''(6) FEDERAL PRISON SYSTEM.—Funds available to the Attorney General for the Federal Prison System may be used for—

''(A) inmate medical services and inmate legal services, within the Federal prison system;

''(B) the purchase and exchange of farm products and livestock;

''(C) the acquisition of land as provided in section 4010 of title 18; and

''(D) the construction of buildings and facilities for penal and correctional institutions (including prison camps), by contract or force account, including the payment of United States prisoners for their work performed in any such construction;

except that no funds may be used to distribute or make available to a prisoner any commercially published information or material that is sexually explicit or features nudity.

''(7) DETENTION TRUSTEE.—Funds available to the Attorney General for the Detention Trustee may be used for all the activities of such Trustee in the exercise of all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service and to the detention of aliens in the custody of the Immigration and Naturalization Service, including the overseeing of construction of detention facilities or for housing related to such detention, the management of funds appropriated to the Department for the exercise of detention functions, and the direction of the United States Marshals Service and Immigration Service with respect to the exercise of detention policy setting and operations for the Department of Justice.

''(c) RELATED PROVISIONS.—

''(1) LIMITATION OF COMPENSATION OF INDIVIDUALS EMPLOYED AS ATTORNEYS.—No funds available to the Attorney General may be used to pay compensation for services provided by an individual employed as an attorney (other than an individual employed to provide services as a foreign attorney in special cases) unless such individual is duly licensed and authorized to practice as an attorney under the law of a State, a territory of the United States, or the District of Columbia.

''(2) REIMBURSEMENTS PAID TO GOVERNMENTAL ENTITIES.—Funds available to the Attorney General that are paid as reimbursement to a governmental unit of the Department of Justice, to another Federal entity, or to a unit of State or local government, may be used under authorities available to the unit or entity receiving such reimbursement.''.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 31 of title 28, United States Code, is amended by adding at the end the following:

''530C. Authority to use available funds.''.

SEC. 202. PERMANENT AUTHORITY RELATING TO ENFORCEMENT OF LAWS.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

''§ 530D. Report on enforcement of laws

''(a) REPORT.—

''(1) IN GENERAL.—The Attorney General shall submit to the Congress a report of any instance in which the Attorney General or any officer of the Department of Justice—

''(A) establishes or implements a formal or informal policy to refrain—

''(i) from enforcing, applying, or administering any provision of any Federal statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer on the grounds that such provision is unconstitutional; or

''(ii) within any judicial jurisdiction of or within the United States, from adhering to, enforcing, applying, or complying with, any standing rule of decision (binding upon courts of, or inferior to those of, that jurisdiction) established by a final decision of any court of, or superior to those of, that jurisdiction, respecting the interpretation, construction, or application of the Constitution or of any statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer;

''(B) determines—

''(i) to contest affirmatively, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law; or

''(ii) to refrain from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of any such provision; or

''(C) approves (other than in circumstances in which a report is submitted to the Joint Committee on Taxation, pursuant to section 6405 of the Internal Revenue Code of 1986) the settlement or compromise (other than in bankruptcy) of any claim, suit, or other action—

''(i) against the United States (including any agency or instrumentality thereof) for a sum that exceeds, or is likely to exceed, $2,000,000; or

''(ii) by the United States (including any agency or instrumentality thereof) pursuant to an agreement, consent decree, or order (or pursuant to any modification of an agreement, consent decree, or order) that provides injunctive or other nonmonetary relief that exceeds, or is likely to exceed, 3 years in duration.

''(2) SUBMISSION OF REPORT TO THE CONGRESS.—For the purposes of paragraph (1), a report shall be considered to be submitted to the Congress if the report is submitted to—

''(A) the majority leader and minority leader of the Senate;

''(B) the Speaker, majority leader, and minority leader of the House of Representatives;

''(C) the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives and the chairman and ranking minority member of the Committee on the Judiciary of the Senate; and

''(D) the Senate Legal Counsel and the General Counsel of the House of Representatives.

''(b) DEADLINE.—A report shall be submitted—

''(1) under subsection (a)(1)(A), not later than 30 days after the establishment or implementation of each policy;

''(2) under subsection (a)(1)(B), within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but in no event later than 30 days after the making of each determination; and

''(3) under subsection (a)(1)(C), not later than 30 days after the conclusion of each fiscal-year quarter, with respect to all approvals occurring in such quarter.

''(c) CONTENTS.—A report required by subsection (a) shall—

''(1) specify the date of the establishment or implementation of the policy described in subsection (a)(1)(A), of the making of the determination described in subsection (a)(1)(B), or of each approval described in subsection (a)(1)(C);

''(2) include a complete and detailed statement of the relevant issues and background (including a complete and detailed statement of the reasons for the policy or determination, and the identity of the officer responsible for establishing or implementing such policy, making such determination, or approving such settlement or compromise), except that—

''(A) such details may be omitted as may be absolutely necessary to prevent improper disclosure of national-security- or classified information, or of any information subject to the deliberative-process-, executive-, attorney-work-product-, or attorney-client privileges, if the fact of each such omission (and the precise ground or grounds therefor) is clearly noted in the statement: Provided, That this subparagraph shall not be construed to deny to the Congress (including any House, Committee, or agency thereof) any such omitted details (or related information) that it lawfully may seek, subsequent to the submission of the report; and

''(B) the requirements of this paragraph shall be deemed satisfied—

''(i) in the case of an approval described in subsection (a)(1)(C)(i), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the legal and factual basis or bases for the settlement or compromise (if not apparent on the face of documents provided); and

''(ii) in the case of an approval described in subsection (a)(1)(C)(ii), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the injunctive or other nonmonetary relief (if not apparent on the face of documents provided); and

''(3) in the case of a determination described in subsection (a)(1)(B) or an approval described in subsection (a)(1)(C), indicate the nature, tribunal, identifying information, and status of the proceeding, suit, or action.

''(d) DECLARATION.—In the case of a determination described in subsection (a)(1)(B), the representative of the United States participating in the proceeding shall make a clear declaration in the proceeding that any position expressed as to the constitutionality of the provision involved is the position of the executive branch of the Federal Government (or, as applicable, of the President or of any executive agency or military department).

''(e) APPLICABILITY TO THE PRESIDENT AND TO EXECUTIVE AGENCIES AND MILITARY DEPARTMENTS.—The reporting, declaration, and other provisions of this section relating to the Attorney General and other officers of the Department of Justice shall apply to the President, to the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) that establishes or implements a policy described in subsection (a)(1)(A) or is authorized to conduct litigation, and to the officers of such executive agency.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

''530D. Report on enforcement of laws.''.

(2) Section 712 of Public Law 95–521 (92 Stat. 1883) is amended by striking subsection (b).

(3) Not later than 30 days after the date of the enactment of this Act, the President shall advise the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) of the enactment of this section.

(4)(A) Not later than 90 days after the date of the enactment of this Act, the Attorney General (and, as applicable, the President, and the head of any executive agency or military department described in subsection (e) of section 530D of title 28, United States Code, as added by subsection (a)) shall submit to Congress a report (in accordance with subsections (a), (c), and (e) of such section) on—

(i) all policies of which the Attorney General and applicable official are aware described in subsection (a)(1)(A) of such section that were established or implemented before the date of the enactment of this Act and were in effect on such date; and

(ii) all determinations of which the Attorney General and applicable official are aware described in subsection (a)(1)(B) of such section that were made before the date of the enactment of this Act and were in effect on such date.

(B) If a determination described in subparagraph (A)(ii) relates to any judicial, administrative, or other proceeding that is pending in the 90-day period beginning on the date of the enactment of this Act, with respect to any such determination, then the report required by this paragraph shall be submitted within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but not later than 30 days after the date of the enactment of this Act.

SEC. 203. NOTIFICATIONS AND REPORTS TO BE PROVIDED SIMULTANEOUSLY TO COMMITTEES.

If the Attorney General or any officer of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) is required by any Act (which shall be understood to include any request or direction contained in any report of a committee of the Congress relating to an appropriations Act or in any statement of managers accompanying any conference report agreed to by the Congress) to provide a notice or report to any committee or subcommittee of the Congress (other than both the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate), then such Act shall be deemed to require that a copy of such notice or report be provided simultaneously to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

SEC. 204. MISCELLANEOUS USES OF FUNDS; TECHNICAL AMENDMENTS.

(a) BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 504(a) by striking ''502'' and inserting ''501(b)'';

(2) in section 506(a)(1) by striking ''participating'';

(3) in section 510(a)(3) by striking ''502'' and inserting ''501(b)'';

(4) in section 510 by adding at the end the following:

''(d) No grants or contracts under subsection (b) may be made, entered into, or used, directly or indirectly, to provide any security enhancements or any equipment to

any non-governmental entity that is not engaged in law enforcement or law enforcement support, criminal or juvenile justice, or delinquency prevention.''; and

(5) in section 511 by striking ''503'' and inserting ''501(b)''.

(b) ATTORNEYS SPECIALLY RETAINED BY THE ATTORNEY GENERAL.—The 3d sentence of section 515(b) of title 28, United States Code, is amended by striking ''at not more than $12,000''.

SEC. 205. TECHNICAL AND MISCELLANEOUS AMENDMENTS TO DEPARTMENT OF JUSTICE AUTHORITIES; AUTHORITY TO TRANSFER PROPERTY OF MARGINAL VALUE; RECORDKEEPING; PROTECTION OF THE ATTORNEY GENERAL.

(a) Section 524 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting ''to the Attorney General'' after ''available'';

(2) in paragraph (c)(1)—

(A) by striking the semicolon at the end of the 1st subparagraph (I) and inserting a period;

(B) by striking the 2d subparagraph (I); and

(C) by striking ''fund'' in the 3d sentence following the 2d subparagraph (I) and inserting ''Fund'';

(3) in paragraph (c)(2)—

(A) by striking ''for information'' each place it appears; and

(B) by striking ''$250,000'' the 2d and 3d places it appears and inserting ''$500,000'';

(4) in paragraph (c)(3) by striking ''(F)'' and inserting ''(G)'';

(5) in paragraph (c)(5) by striking ''Fund which'' and inserting ''Fund, that''; and

(6) in subsection (c)(9)(B)—

(A) by striking ''year 1997'' and inserting ''years 2002 and 2003''; and

(B) by striking ''Such transfer shall not'' and inserting ''Each such transfer shall be subject to satisfaction by the recipient involved of any outstanding lien against the property transferred, but no such transfer shall''.

(b) Section 522 of title 28, United States Code, is amended by inserting ''(a)'' before ''The'', and by inserting at the end the following:

''(b) With respect to any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose beginning not later than 1 year after the date of enactment of 21st Century Department of Justice Appropriations Authorization Act and continuing thereafter, and notwithstanding any other provision of law, the same criteria shall be used (and shall be required to be used, as applicable) to classify or categorize offenders and victims (in the criminal context), and to classify or categorize actors and acted upon (in the noncriminal context).''.

(c) Section 534(a)(3) of title 28, United States Code, is amended by adding ''and'' after the semicolon.

(d) Section 509(3) of title 28, United States Code, is amended by striking the 2d period.

(e) Section 533 of title 28, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by adding after paragraph (2) a new paragraph as follows:

''(3) to assist in the protection of the person of the Attorney General.''.

(f) Hereafter, no compensation or reimbursement paid pursuant to section 501(a) of Public Law 99–603 (100 Stat. 3443) or section 241(i) of the Act of June 27, 1952 (ch. 477) shall be subject to section 6503(d) of title 31, United States Code, and no funds available to the Attorney General may be used to pay any assessment made pursuant to such section 6503 with respect to any such compensation or reimbursement.

(g) Section 108 of Public Law 103–121 (107 Stat. 1164) is amended by replacing ''three'' with ''six'', by replacing ''only'' with '', first,'', and by replacing ''litigation.'' with ''litigation, and, thereafter, for financial systems, and other personnel, administrative, and litigation expenses of debt collection activities.''.

SEC. 206. OVERSIGHT; WASTE, FRAUD, AND ABUSE OF APPROPRIATIONS.

(a) Section 529 of title 28, United States Code, is amended by inserting ''(a)'' before ''Beginning'', and by adding at the end the following:

''(b) Notwithstanding any provision of law limiting the amount of management or administrative expenses, the Attorney General shall, not later than May 2, 2003, and of every year thereafter, prepare and provide to the Committees on the Judiciary and Appropriations of each House of the Congress using funds available for the underlying programs—

''(1) a report identifying and describing every grant, cooperative agreement, or programmatic services contract that was made, entered into, awarded, or extended, in the immediately preceding fiscal year, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services), and including, without limitation, for each such grant, cooperative agreement, or contract: the term, the dollar amount or value, a complete and detailed description of its specific purpose or purposes, the names of all parties, the names of each unsuccessful applicant or bidder (and a complete and detailed description of the specific purpose or purposes proposed of the application or bid), except that such description may be summary with respect to each application or bid having a total value of less than $350,000; and

''(2) a report identifying and reviewing every grant, cooperative agreement, or programmatic services contract made, entered into, awarded, or extended after October 1, 2002, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services) that was closed out or that otherwise ended in the immediately preceding fiscal year (or even if not yet closed out, was terminated or otherwise ended in the fiscal year that ended 2 years before the end of such immediately preceding fiscal year), and including, without limitation, for each such grant, cooperative agreement, or contract: a complete and detailed description of how the appropriated funds involved actually were spent, complete and detailed statistics relating to its performance, its specific purpose or purposes, and its effectiveness, and a written declaration by each non-Federal grantee and each non-Federal party to such agreement or to such contract, that—

''(A) the appropriated funds were spent for such purpose or purposes, and only such purpose or purposes;

''(B) the terms of the grant, cooperative agreement, or contract were complied with; and

''(C) all documentation necessary for conducting a full and proper audit under generally accepted accounting principles, and any (additional) documentation that may have been required under the grant, cooperative agreement, or contract, have been kept in orderly fashion and will be preserved for not less than 3 years from the date of such close out, termination, or end;

except that the requirement of this paragraph shall be deemed satisfied with respect to any such description, statistics, or declaration if such non-Federal grantee or such non-Federal party shall have failed to provide the same to the Attorney General, and the Attorney General notes the fact of such failure and the name of such grantee or such party in the report.''.

(b) Section 1913 of title 18, United States Code, is amended by striking ''to favor'' and inserting ''a jurisdiction, or an official of any government, to favor, adopt,'', by inserting '', law, ratification, policy,'' after ''legislation'' every place it appears, by striking ''by Congress'' the 2d place it appears, by inserting ''or such official'' before '', through the proper'', by inserting '', measure,'' before ''or resolution'', by striking ''Members of Congress on the request of any Member'' and inserting ''any such Member or official, at his request,'', by striking ''for legislation'' and inserting ''for any legislation''.

(c) Section 1516(a) of title 18, United States Code, is amended by inserting '', entity, or program'' after ''person'', and by inserting ''grant, or cooperative agreement,'' after ''subcontract,''.

(d) Section 112 of title I of section 101(b) of division A of Public Law 105–277 (112 Stat. 2681–67) is amended by striking ''fiscal year'' and all that follows through ''Justice—'', and inserting ''any fiscal year the Attorney General—''.

(e) Section 2320(f) of title 18, United States Code, is amended—

(1) by striking ''title 18'' each place it appears and inserting ''this title''; and

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by inserting ''(1)'' after ''(f)''; and

(4) by adding at the end the following:

''(2) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

''(A) The number of infringement cases involving specific types of works, such as audiovisual works, sound recordings, business software, video games, books, and other types of works.

''(B) The number of infringement cases involving an online element.

''(C) The number and dollar amounts of fines assessed in specific categories of dollar amounts, such as up to $500, from $500 to $1,000, from $1,000 to $5,000, from $5,000 to $10,000, and categories above $10,000.

''(D) The amount of restitution awarded.

''(E) Whether the sentences imposed were served.''.

SEC. 207. ENFORCEMENT OF FEDERAL CRIMINAL LAWS BY ATTORNEY GENERAL.

Section 535 of title 28, United States Code, is amended in subsections (a) and (b), by replacing ''title 18'' with ''Federal criminal law'', and in subsection (b), by replacing ''or complaint'' with ''matter, or complaint witnessed, discovered, or'', and by inserting ''or the witness, discoverer, or recipient, as appropriate,'' after ''agency,''.

SEC. 208. COUNTERTERRORISM FUND.

(a) ESTABLISHMENT; AVAILABILITY.—There is hereby established in the Treasury of the United States a separate fund to be known as the ''Counterterrorism Fund'', amounts in which shall remain available without fiscal year limitation—

(1) to reimburse any Department of Justice component for any costs incurred in connection with—

(A) reestablishing the operational capability of an office or facility that has been damaged or destroyed as the result of any domestic or international terrorism incident;

(B) providing support to counter, investigate, or prosecute domestic or international terrorism, including, without limitation, paying rewards in connection with these activities; and

(C) conducting terrorism threat assessments of Federal agencies and their facilities; and

(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

(b) NO EFFECT ON PRIOR APPROPRIATIONS.—The amendment made by subsection (a) shall not affect the amount or availability of any appropriation to the Counterterrorism Fund made before the date of enactment of this Act.

SEC. 209. STRENGTHENING LAW ENFORCEMENT IN UNITED STATES TERRITORIES, COMMONWEALTHS, AND POSSESSIONS.

(a) EXTENDED ASSIGNMENT INCENTIVE.—Chapter 57 of title 5, United States Code, is amended—

(1) in subchapter IV, by inserting at the end the following:

''§ 5757. Extended assignment incentive

''(a) The head of an Executive agency may pay an extended assignment incentive to an employee if—

''(1) the employee has completed at least 2 years of continuous service in 1 or more civil service positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands;

''(2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and

''(3) the agency determines it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in the territory or possession, the Commonwealth of Puerto Rico or Commonwealth of the Northern Mariana Islands, except that the total amount of service performed in a particular territory, commonwealth, or possession under 1 or more agreements established under this section may not exceed 5 years.

''(b) The sum of extended assignment incentive payments for a service period may not exceed the greater of—

''(1) an amount equal to 25 percent of the annual rate of basic pay of the employee at the beginning of the service period, times the number of years in the service period; or

''(2) $15,000 per year in the service period.

''(c)(1) Payment of an extended assignment incentive shall be contingent upon the employee entering into a written agreement with the agency specifying the period of service and other terms and conditions under which the extended assignment incentive is payable.

''(2) The agreement shall set forth the method of payment, including any use of an initial lump-sum payment, installment payments, or a final lump-sum payment upon completion of the entire period of service.

''(3) The agreement shall describe the conditions under which the extended assignment incentive may be canceled prior to the completion of agreed-upon service period and the effect of the cancellation. The agreement shall require that if, at the time of cancellation of the incentive, the employee has received incentive payments which exceed the amount which bears the same relationship to the total amount to be paid under the agreement as the completed service period bears to the agreed-upon service period, the employee shall repay that excess amount, at a minimum, except that an employee who is involuntarily reassigned to a position stationed outside the territory, commonwealth, or possession or involuntarily separated (not for cause on charges of misconduct, delinquency, or inefficiency) may not be required to repay any excess amounts.

''(d) An agency may not put an extended assignment incentive into effect during a period in which the employee is fulfilling a recruitment or relocation bonus service agreement under section 5753 or for which an employee is receiving a retention allowance under section 5754.

''(e) Extended assignment incentive payments may not be considered part of the basic pay of an employee.

''(f) The Office of Personnel Management may prescribe regulations for the administration of this section, including regulations on an employee's entitlement to retain or receive incentive payments when an agreement is canceled. Neither this section nor implementing regulations may impair any agency's independent authority to administratively determine compensation for a class of its employees.''; and

(2) in the analysis by adding at the end the following:

''5757. Extended assignment incentive.''.

(b) CONFORMING AMENDMENT.—Section 5307(a)(2)(B) of title 5, United States Code, is amended by striking ''or 5755'' and inserting ''5755, or 5757''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 6 months after the date of enactment of this Act.

(d) REPORT.—No later than 3 years after the effective date of this section, the Office of Personnel Management, after consultation with affected agencies, shall submit a report to Congress assessing the effectiveness of the extended assignment incentive authority as a human resources management tool and making recommendations for any changes necessary to improve the effectiveness of the incentive authority. Each agency shall maintain such records and report such information, including the number and size of incentive offers made and accepted or declined by geographic location and occupation, in such format and at such times as the Office of Personnel Management may prescribe, for use in preparing the report.

SEC. 210. ADDITIONAL AUTHORITIES OF THE ATTORNEY GENERAL.

(a) FBI DANGER PAY.—Section 151 of the Foreign Relations Act, fiscal years 1990 and 1991 (5 U.S.C. 5928 note) is amended by inserting ''or Federal Bureau of Investigation'' after ''Drug Enforcement Administration''.

(b) FOREIGN REIMBURSEMENTS.—For fiscal year 2002 and thereafter, whenever the Federal Bureau of Investigation participates in a cooperative project to improve law enforcement or national security operations or services with a friendly foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Federal Bureau of Investigation. The amount of a reimbursement or contribution credited shall be available only for payment of the share of the project expenses allocated to the participating foreign country.

(c) RAILROAD POLICE TRAINING FEES.—For fiscal year 2002 and thereafter, the Attorney General is authorized to establish and collect a fee to defray the costs of railroad police officers participating in a Federal Bureau of Investigation law enforcement training program authorized by Public Law 106–110, and to credit such fees to the appropriation account ''Federal Bureau of Investigation, Salaries and Expenses'', to be available until expended for salaries and expenses incurred in providing such services.

(d) WARRANTY WORK.—In instances where the Attorney General determines that law enforcement-, security-, or mission-related considerations mitigate against obtaining maintenance or repair services from private sector entities for equipment under warranty, the Attorney General is authorized to seek reimbursement from such entities for warranty work performed at Department of Justice facilities, and to credit any payment made for such work to any appropriation charged therefor.

TITLE III—MISCELLANEOUS

SEC. 301. REPEALERS.

(a) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL INSTITUTE OF CORRECTIONS.—Chapter 319 of title 18, United States Code, is amended by striking section 4353.

(b) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES MARSHALS SERVICE.—Section 561 of title 28, United States Code, is amended by striking subsection (i).

SEC. 302. TECHNICAL AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE.

Title 18 of the United States Code is amended—

(1) in section 4041 by striking ''at a salary of $10,000 a year'';

(2) in section 4013—

(A) in subsection (a)—

(i) by replacing ''the support of United States prisoners'' with ''Federal prisoner detention'';

(ii) in paragraph (2) by adding ''and'' after ''hire;'';

(iii) in paragraph (3) by replacing ''entities; and'' with ''entities.''; and

(iv) in paragraph (4) by inserting ''The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for'' before ''entering''; and

(B) by redesignating—

(i) subsections (b) and (c) as subsections (c) and (d); and

(ii) paragraph (a)(4) as subsection (b), and subparagraphs (A), (B), and (C), of such paragraph (a)(4) as paragraphs (1), (2), and (3) of such subsection (b); and

(3) in section 209(a)—

(A) by striking ''or makes'' and inserting ''makes''; and

(B) by striking ''supplements the salary of, any'' and inserting ''supplements, the salary of any''.

SEC. 303. REQUIRED SUBMISSION OF PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE FOR FISCAL YEAR 2003.

When the President submits to the Congress the budget of the United States Government for fiscal year 2003, the President shall simultaneously submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such proposed legislation authorizing appropriations for the Department of Justice for fiscal year 2003 as the President may judge necessary and expedient.

SEC. 304. STUDY OF UNTESTED RAPE EXAMINATION KITS.

The Attorney General shall conduct a study to assess and report to Congress the number of untested rape examination kits that currently exist nationwide and shall submit to the Congress a report containing a summary of the results of such study. For the purpose of carrying out such study, the Attorney General shall attempt to collect information from all law enforcement jurisdictions in the United States.

SEC. 305. REPORT ON DCS 1000 (''CARNIVORE'').

Not later than 30 days after the end of fiscal years 2001 and 2002, the Attorney General and the Director of the Federal Bureau of Investigation shall provide to the Committees

on the Judiciary of the House of Representatives and the Senate a report detailing—

(1) the number of orders or extensions applied for to authorize the use of DCS 1000 (or any similar system or device);

(2) the fact that the order or extension was granted as applied for, was modified, or was denied;

(3) the kind of order applied for and the specific statutory authority relied on to use DCS 1000 (or any similar system or device);

(4) the court that authorized each use of DCS 1000 (or any similar system or device);

(5) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(6) the offense specified in the order or application, or extension of an order;

(7) the Department of Justice official or officials who approved each use of DCS 1000 (or any similar system or device);

(8) the criteria used by the Department of Justice officials to review requests to use DCS 1000 (or any similar system or device);

(9) a complete description of the process used to submit, review, and approve requests to use DCS 1000 (or any similar system or device); and

(10) any information intercepted that was not authorized by the court to be intercepted.

SEC. 306. STUDY OF ALLOCATION OF LITIGATING ATTORNEYS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit a report to the chairman and ranking minority member of the Committees on the Judiciary of the House of Representatives and Committee on the Judiciary of the Senate, detailing the distribution or allocation of appropriated funds, attorneys and other personnel, per-attorney workloads, and number of cases opened and closed, for each Office of United States Attorney and each division of the Department of Justice except the Justice Management Division.

SEC. 307. USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended to read as follows:

''(b) USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.—Funds provided under section 20103 or 20104 may be applied to the cost of—

''(1) altering existing correctional facilities to provide separate facilities for juveniles under the jurisdiction of an adult criminal court who are detained or are serving sentences in adult prisons or jails;

''(2) providing correctional staff who are responsible for supervising juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court with orientation and ongoing training regarding the unique needs of such offenders; and

''(3) providing ombudsmen to monitor the treatment of juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court in adult facilities, consistent with guidelines issued by the Assistant Attorney General.

SEC. 308. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

''(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the Inspector General's discretion, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice; and

''(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators or law enforcement personnel, where the allegations relate to the exercise of an attorney's authority to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility.''; and

(2) by inserting at the end the following:

''(d) The Attorney General shall insure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department shall report such information to the Inspector General.''.

SEC. 309. REPORT ON INSPECTOR GENERAL AND DEPUTY INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.

Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the chairman and ranking member of the Committee on the Judiciary of the Senate and the Committee of the Judiciary on the House of Representatives concerning—

(1) whether there should be established, within the Department of Justice, a separate Office of the Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation; and

(2) whether there should be established, within the Office of the Inspector General for the Department of Justice, an Office of Deputy Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation.

TITLE IV—VIOLENCE AGAINST WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the ''Violence Against Women Office Act''.

SEC. 402. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2002(d)(3)—

(A) by striking ''section 2005'' and inserting ''section 2009''; and

(B) by striking ''section 2006'' and inserting ''section 2010'';

(2) by redesignating sections 2002 through 2006 as sections 2006 through 2010, respectively; and

(3) by inserting after section 2001 the following:

''SEC. 2002. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

''(a) OFFICE.—There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Violence Against Women Office (in this title referred to as the 'Office').

''(b) DIRECTOR.—The Office shall be headed by a Director (in this title referred to as the 'Director'), who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General, and shall make reports to the Deputy Attorney General as the Director deems necessary to fulfill the mission of the Office. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this title.

''SEC. 2003. DUTIES AND FUNCTIONS OF DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

''(a) IN GENERAL.—The Director shall have the following duties:

''(1) Serving as special counsel to the Attorney General on the subject of violence against women.

''(2) Maintaining liaison with the judicial branches of the Federal and State Governments on matters relating to violence against women.

''(3) Providing information to the President, the Congress, the judiciary, State and local governments, and the general public on matters relating to violence against women.

''(4) Serving, at the request of the Attorney General or Assistant Attorney General, as the representative of the Department of Justice on domestic task forces, committees, or commissions addressing policy or issues relating to violence against women.

''(5) Serving, at the request of the President, acting through the Attorney General, as the representative of the United States Government on human rights and economic justice matters related to violence against women in international forums, including, but not limited to, the United Nations.

''(6) Carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) and the amendments made by that Act, and other functions of the Department of Justice on matters relating to violence against women, including with respect to those functions—

''(A) the development of policy, protocols, and guidelines;

''(B) the development and management of grant programs and other programs, and the provision of technical assistance under such programs; and

''(C) the award and termination of grants, cooperative agreements, and contracts.

''(7) Providing technical assistance, coordination, and support to—

''(A) other elements of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to violence against women, including the litigation of civil and criminal actions relating to enforcing such laws;

''(B) other Federal, State, and tribal agencies, in efforts to develop policy, provide technical assistance, and improve coordination among agencies carrying out efforts to eliminate violence against women, including Indian or indigenous women; and

''(C) grantees, in efforts to combat violence against women and to provide support and assistance to victims of such violence.

''(8) Exercising such other powers and functions as may be vested in the Director pursuant to this title or by delegation of the Attorney General or Assistant Attorney General.

''(9) Establishing such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Office.

''SEC. 2004. STAFF OF VIOLENCE AGAINST WOMEN OFFICE.

''The Attorney General shall ensure that the Director has adequate staff to support the Director in carrying out the Director's responsibilities under this title.

''SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this title.''.

Section 1. Short title and table of contents

Section 1 provides that the short title of the Act shall be the ''21st Century Department of Justice Appropriations Authorization Act.'' It also contains a table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

Section 101. Specific sums authorized to be appropriated

Section 101 authorizes appropriations to carry out the work of the various components of the Department of Justice for fiscal year 2002. The structure of Title I mirrors the organization of the annual Commerce-Justice-State, CJS, appropriations bill and the President's budget request. The bill authorizes the appropriations of amounts requested by the President in most accounts. The accounts, and the activities and components that each would fund, are as follows:

General Administration—$93,433,000—For the leadership offices of the Department, including the offices of the Attorney General and Deputy Attorney General, and the Justice Management Division, Executive Support program, Intelligence Policy, Office of Professional Responsibility, and General Administration.

Administrative Review and Appeals—$178,499,000—For the Executive Office for Immigration Review and the Office of the Pardon Attorney.

Office of Inspector General—$55,000,000—For the investigation of allegations of violations of criminal and civil statutes, regulations, and ethical standards by Department employees, and for the new position of Deputy Inspector General to oversee the Federal Bureau of Investigation. This amount is $10 million above the President's Request. The IG's office has been severely downsized over the last several years from approximately 460 to 360 full-time equivalents. Oversight is a priority and this level of funding should get the IG back on the path of meeting the audit and oversight needs of the Department. The Committee expects that the OIG will substantially increase its oversight of the FBI, INS, and the Department's grant programs.

General Legal Activities—$566,822,000—For the conduct of the legal activities of the Department. This includes the office of Solicitor General, Tax Division, Criminal Division, Civil Division, Environment and Natural Resources Division, Civil Rights Division, Office of Legal Counsel, Interpol, Legal Activities Office Automation, and Office of Dispute Resolution. The authorization includes not less than $4,000,000 to augment the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals and not less than $10,000,000 to augment the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147).

Antitrust Division—$140,973,000—For decreasing anti-competitive behavior among U.S. businesses and increasing the competitiveness of the national and international business environment.

United States Attorneys—$1,346,289,000—For the 93 U.S. Attorneys and their offices and the Executive Office of U.S. Attorneys. The U.S. Attorneys represent the United States in the vast majority of criminal and civil cases handled by the Justice Department.

Federal Bureau of Investigation—$3,507,109,000—For the detection, investigation, and prosecution of crimes against the United States. The FBI also plays a primary role in the protection of the United States from foreign intelligence activities and investigating and preventing acts of terrorism against the United States.

United States Marshals Service—$626,439,000—To protect the Federal courts and its personnel and to ensure the effective operation of the federal judicial system, of which no more than $6,621,000 may be used for construction.

Federal Prison System—$4,662,710,000—For the administration, operation, and maintenance of federal penal and correctional institutions.

Federal Prison Detention—$724,682,000—For the support of United States prisoners in non-federal institutions, as authorized by 18 U.S.C. §4013(a).

Drug Enforcement Agency—$1,480,929,000—To enforce the controlled substance laws and regulations of the United States and to recommend and support non-enforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets.

Immigration and Naturalization Service—$3,516,411,000—For the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, of which no more than $2,737,341,000 for salaries and expenses and border affairs, no more than $650,660,000 for salaries and expenses of citizenship and benefits, and no more than $128,410,000 for construction.

Fees and Expenses of Witnesses—$156,145,000—For fees and expenses associated with providing witness testimony on behalf of the United States, expert witnesses, and private counsel for government employees who have been sued, charged, or subpoenaed for actions taken while performing their official duties.

Interagency Crime and Drug Enforcement—$338,106,000—For the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking.

Foreign Claims Settlement Commission—$1,130,000—To adjudicate claims of U.S. nationals against foreign governments under jurisdiction conferred by the International Claims Settlement Act of 1949, as amended, and other authorizing legislation;

Community Relations Service (CRS)—$9,269,000—To assist communities in preventing violence and resolving conflicts arising from racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance. CRS activities are conducted in accordance with Title X of the Civil Rights Act of 1964.

Assets Forfeiture Fund—$22,949,000—To provide a stable source of resources to cover the costs of the asset seizure and forfeiture program, including the costs of seizing, evaluating, inventorying, maintaining, protecting, advertizing, forfeiting, and disposing of property.

United States Parole Commission—$10,862,000—For the activities of the U.S. Parole Commission. The Commission has jurisdiction over all Federal prisoners eligible for parole, wherever confined, and continuing jurisdiction over those who are released on parole or as if on parole.

Federal Detention Trustee—$1,718,000—For necessary expenses to exercise all power and functions authorized by law relating to the detention of Federal prisoners in non-federal institutions or otherwise in the custody of the United States Marshall Service; and the detention of aliens in the custody of the Immigration and Naturalization Service.

Joint Automated Booking System—$15,957,000—For expenses necessary for the nationwide deployment of a Joint Automated Booking System including automated capability to transmit fingerprint and image data.

Narrowband Communications—$104,606,000—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems.

Radiation Exposure Compensation—$1,996,000—For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act.

Counterterrorism Fund—$4,989,000—For the reimbursement of: 1. the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident and 2. the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities.

Office of Justice Programs—$116,369,000—For necessary administrative expenses of the Office of Justice Programs.

Section 102. Appointment of additional Assistant United States Attorneys and reduction of certain litigation positions

This section authorizes the Attorney General to transfer 200 additional Assistant U.S. Attorneys from among the six litigating divisions at the Justice Department's headquarters, Main Justice, in Washington, D.C. to the various U.S. Attorneys offices around the country. Vacant positions resulting from transfers pursuant to this section will be terminated. This section is intended to raise the productivity of Washington-based lawyers, who litigate criminal and civil cases across the Nation for the Justice Department, by moving them to the field. Litigating attorneys for the government are most effective in the Federal judicial district where their cases are pending. The transfer authorization is discretionary to prevent ongoing litigation from being adversely effected.

Section 103. Authorization of additional Assistant United States Attorneys for Project Safe Neighborhoods

This section authorizes an additional Assistant United States Attorney in each of the 94 U.S. Attorney Offices to implement part of the Administration's Project Safe Neighborhoods proposal to reduce school gun violence across the nation. These prosecutors will assist in targeting juveniles who obtain weapons and commit violent crimes, as well as the adults who place firearms in the hands of juveniles.

TITLE II—PERMANENT ENABLING PROVISIONS

Section 201. Permanent authority

Section 201 amends Chapter 31 of Title 28, United States Code, by creating a new section, ''530C''. This section details permitted uses of available funds by the Attorney General to carry out the activities of the Justice Department. General permitted uses of available funds include: payment for motor vehicles, boats, and aircraft; payment for service of experts and consultants, and payment for private counsel; payment for official reception and representation expenses and public tours; payment of unforeseen emergencies of a confidential character; payment of miscellaneous and emergency expenses; payment of certain travel and attendance expenses; payment of contracts for personal services abroad; payment of interpreters and translators; and payment for uniforms.

Specific permitted uses of available funds include: payment for aircraft and boats; payment for ammunition, firearms, and firearm competitions; and payment for construction of certain facilities.

The use of funds appropriated for Fees and Expenses of Witnesses is limited to certain expenses and the construction of witness safesites. The use of funds appropriated for the Federal Bureau of Investigation is limited to the detection, investigation, and

prosecution of crimes against the United States. The use of funds appropriated for the Immigration and Naturalization Service is limited to general Immigration and Naturalization Service activities. The use of appropriated funds for the Federal Prison System is limited to general function of the Federal Prison System. The use of appropriated funds for the Detention Trustee is limited to the functions authorized by law relating the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service and for the detention of aliens in the custody of the INS.

The Attorney General is prohibited from compensating employed attorneys who are not duly licensed and authorized to practice under the law of a State, U.S. territory, or the District of Columbia. And reimbursement payments to governmental units of the Department of Justice, other Federal entities, or State or local governments are limited to uses permitted by the authority permitting such reimbursement payment.

Section 202. Permanent authority relating to the enforcement of laws

Section 202 amends Chapter 31 of Title 28, United States Code, by creating a new section, ''530D'' relating to reporting on the enforcement of laws. This section directs the Attorney General to report to Congress in any case in which the Attorney General, the President, head of executive agency, or military department:

1. establishes a policy to refrain from enforcing any provision of a Federal statute, rule regulation, program, policy, or other law within the responsibility of the Attorney General;

2. refrains from adhering to, enforcing, applying, or complying with any other judicial determination or other statute, rule, regulation, program, or policy within the responsibility of the Attorney General;

3. decides to contest in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law;

4. refrains from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of any such provision; or

5. when the Attorney General approves the settlement or compromise of any claim, suit or other action against the United States for more than $2,000,000 or for injunctive relief against the government that is likely to exceed three years.

Each report, which is subject to certain time and content requirements, must be submitted to the Majority and Minority Leaders of the Senate, the Speaker of the House, House Majority Leader, House Minority Leader, and the Chairman and ranking minority member of the Senate and House Committees on the Judiciary, the Senate Legal Counsel and the General Counsel of the House of Representatives. Section 202 also includes a number of conforming amendments.

Section 203. Notifications and reports to be provided simultaneously to committees

Section 203 requires the Attorney General or other officer of the Department of Justice to simultaneously submit copies of any notice or report, which is required by law to be submitted to other Committees or Subcommittees of Congress, to the House and Senate Judiciary Committees.

Section 204. Miscellaneous uses of funds; technical amendments

Section 204 provides technical amendments to the Bureau of Justice Assistance grant programs in title I of the Omnibus Crime Control and Safe Streets Act of 1968. It also makes minor amendments to the amount available to compensate attorneys specially retained by the Attorney General.

Section 205. Technical amendment; authority to transfer property of marginal value.

Section 205 makes technical amendments to section 524(c) of title 28, United States Codes, clarifies the Attorney General's authority to transfer property of marginal value, and requires the use of standard criteria for the purpose of categorizing offenders, victims, actors, and those acted upon in any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose. This section also makes several clerical and technical amendments to title 28, United States Code. In addition, this section adds authority to ensure that no inference is created that the government is liable for interest on certain retroactive payments made by the Department of Justice and to improve financial systems and debt-collection activities.

Section 206. Oversight; waste, fraud, and abuse of appropriations

Section 206 amends Section 529 of Title 28, United States Code, to require the Attorney General to submit an annual report to the House and Senate Committees on the Judiciary detailing: every grant, cooperative agreement, or programmatic services contract that was made, entered into, awarded, or extended in the immediately preceding fiscal year by or on behalf of the Office of Justice Programs; and a report on every grant, cooperative agreement, or programmatic services contract made, entered into, awarded, or extended by or on behalf of the Office of Justice Programs that was terminated or that otherwise ended in the immediately preceding fiscal year.

In addition, Section 206 amends the Anti-Lobbying Act to expand its coverage to all legislative activity at the federal and state level and establishes a new reporting requirement on the enforcement and prosecution of copyright infringements, along with a number of conforming amendments.

Section 207. Enforcement of the federal criminal laws by Attorney General

Section 207 provides clarifying amendments to title 28, United States Code, relating to the enforcement of federal criminal law.

Section 208. Counterterrorism fund

Section 208 establishes a counterterrorism fund in the Treasury of the United States, without effecting prior appropriations, to reimburse Justice Department components for any costs incurred in connection with:

1. reestablishing the operational capability of an office or facility that has been damaged as the result of any domestic or international terrorism incident;

2. providing support to counter, investigate, or prosecute domestic or international terrorism, including paying rewards in connection with these activities;

3. conducting terrorism threat assessments of Federal agencies; and

4. for costs incurred in connection with detaining individuals in foreign countries who are accused of acts of terrorism in violation of United States law.

Section 209. Strengthening law enforcement in United States Territories, Commonwealths, and Possessions.

Section 209 allows the payment of a retention bonus and other extended assignment incentives to retain law enforcement personnel in U.S. Territories, Commonwealths and Possessions. This new authority is needed to continue the fight against drug and crime problems in these areas.

Section 210. Additional authorities of the Attorney General.

Section 210 provides special ''danger pay'' allowances for FBI agents in hazardous duty locations outside the United States, as is provided for agents of the Drug Enforcement Administration. The section also permits the FBI to enter into cooperative projects with foreign countries to improve law enforcement or intelligence operations and to charge a fee for training of railroad police officers. In addition, the section authorizes the Attorney General to seek reimbursement of warranty work performed at Department of Justice facilities. The Administration requested these provisions in its budget submission for FY 2002.

TITLE III—MISCELLANEOUS

Section 301. Repealers.

Section 301 repeals open-ended authorizations of appropriations for the National Institute of Corrections and the United States Marshals Service.

Section 302. Technical amendments to title 18 of the United States Code

Section 302 makes several minor clarifying amendments to title 18, United States Code. Section 302(3) moves a comma that became the focus of a statutory construction question in Crandon v. United States.

Section 303. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal year 2003.

Section 303 requires the President to submit a Department of Justice authorization bill for FY 2003 to the House and Senate Committees on the Judiciary when the President submits his FY 2003 budget. This authorization bill should contain any recommended additions, changes or modifications to existing authorities that may be necessary to carry out the functions of the Department. Any such addition, change, or modification should be accompanied by a description of the change and the justification for the change.

Section 304. Study of untested rape examination kits.

Section 304 requires the Attorney General to conduct a study and assessment of untested rape examination kits that currently exist nationwide, including information from all law enforcement jurisdictions. The Attorney General is required to submit a report of this study and assessment to the Congress.

Section 305. Report on DCS 1000 (''Carnivore'')

Section 305 requires the Attorney General and Director of the Federal Bureau of Investigation to submit a timely report to the House and Senate Committees on the Judiciary detailing: 1. the number of orders or extensions applied for to authorize the use of DCS 1000 (or any similar system or device); 2. the fact that the order or extension was granted as applied for, was modified, or was denied; 3. the kind of order applied for and the specific statutory authority relied on to use DCS 1000 (or any similar system or device); 4. the court that authorized each use of DCS 1000 (or any similar system or device); 5. the period of interceptions authorized by the order, and the number and duration of any extensions of the order; 6. the offense specified in the order or application, or extension of an order; 7. the Department of Justice official or officials who approved each use of DCS 1000 (or any similar system or device); 8. the criteria used by the Department of Justice officials to review requests to use DCS

1000 (or any similar system or device); 9. a complete description of the process used to submit, review, and approve requests to use DCS 1000 (or any similar system or device); and 10. any information intercepted that was not authorized by the court to be intercepted.

Section 306. Study of allocation of litigating attorneys.

Section 306 requires the Attorney General to report to Congress within 180 days of enactment of this bill on the allocation of funds, attorneys, and other personnel, per-attorney workloads, and number of cases opened and closed for each office of U.S. Attorney and each division of the Department of Justice.

Section 307. Use of Truth-In-Sentencing and Violent Offender Incarceration Grants.

Section 307 provides states with flexibility to use existing Truth-In-Sentencing and Violent Offender Incarceration Grants to account for juveniles being housed in adult prison facilities.

Section 308. Authority of the Department of Justice Inspector General.

Section 308 codifies the Attorney General's order of July 11, 2001, which revised Department of Justice's regulations concerning the Inspector General. The section insures that the Inspector General for the Department of Justice has the authority to decide whether a particular allegation of misconduct by Department of Justice personnel, including employees of the Federal Bureau of Investigation and the Drug Enforcement Administration, should be investigated by the Inspector General or by the internal affairs unit of the appropriate component of the Department of Justice. Consistent with the Attorney General's order, the one exception is that allegations of misconduct that relate to the exercise of an attorney's authority to investigate, litigate, or provide legal advice should be referred to the Office of Professional Responsibility of the Department of Justice.

Section 309. Report on Inspector General and Deputy Inspector General for Federal Bureau of Investigation.

Section 309 requires the Attorney General to submit a report and recommendation to the House and Senate Committees on the Judiciary not later than 90 days after enactment of this Act on whether there should be established an office of Inspector General for the FBI or an office of Deputy Inspector General for the FBI that shall be responsible for supervising independent oversight of programs and operations of the FBI.

TITLE IV—VIOLENCE AGAINST WOMEN

Section 401. Short title.

Section 401 establishes the ''Violence Against Women Office Act'' as the short title.

Section 402. Establishment of Violence Against Women Office.

Section 402 establishes a Violence Against Women Office, VAWO, within the Department of Justice, headed by a presidentially appointed and Senate confirmed Director. The Director is vested with authority for all grants, cooperative agreements, and contracts awarded by the VAWO. In addition, the Director is prohibited from other employment during service as Director or affiliation with organizations the may create a conflict of interest.

This section enumerates the following duties of the Director: 1. serving as special counsel to the Attorney General on violence against women; 2. maintaining a liaison with the judicial branches of Federal and State Governments; 3. providing information to the President, the Congress, the judiciary, State and local government, and to the general public; 4. serving as a representative of the Justice Department on domestic task forces, committees, or commissions; 5. serving as a representative of the United States Government on human rights and economic justice matters at international forums; 6. carrying out the functions of the Justice Department under the Violence Against Women Act of 1994 and other matters relating to violence against women, including developing policy, the development and management of grant and other programs, and the award and termination of grants; 7. providing technical assistance, coordination, support to other elements of the Justice Department, other Federal, State, and Tribal agencies, and to grantees; exercising other powers delegated by the Attorney General or Assistant Attorney General; 8. and establishing rules, regulations, guidelines and necessary procedures to carry out the functions of VAWO.

This section requires the Attorney General to ensure that VAWO receives adequate staff to support the Director in carrying out the responsibilities of the VAWO Act.

This section also authorizes such sums as are necessary to carry out the VAWO Act.

Mr. HATCH. Madam President, I rise in support of the 21st Century Department of Justice Appropriations Authorization Act, which Senator LEAHY and I have introduced today. Senator LEAHY and I have been working for several years to pass a Department of Justice reauthorization bill, and I can say that it is once again a major priority of the Judiciary Committee this session. I want to emphasize to my colleagues how important it is that the Senate consider and pass this legislation to reauthorize the Department of Justice this year.

It is simply inexcusable that over two decades have lapsed since Congress has passed a general authorization bill for the Department of Justice. It is in my view a matter of significant concern when any major cabinet department goes for such a long period of time without congressional reauthorization. Absence of reauthorization encourages administrative drift and permits important policy decisions to be made ad hoc through the adoption of appropriations bills or special purpose legislation. Moreover, our failure to reauthorize has also placed the undue burden on the appropriations committees in both houses to act as both authorizers and appropriators. This legislation will end the piecemeal funding of important programs and responsibilities which affect the day-to-day lives of all Americans.

The Department of Justice's main duty is to provide justice to all Americans, certainly of central importance to our national life. It has the primary responsibility for the enforcement of our Nation's laws. Through its divisions and agencies including the FBI and DEA, it investigates and prosecutes violations of Federal criminal laws, protects the civil rights of our citizens, enforces the antitrust laws, and represents every department and agency of the United States government in litigation. Increasingly, its mission is international as well, protecting the interests of the United States and its people from growing threats of trans-national crime and international terrorism. Additionally, among the Department's key duties is providing much needed assistance and advice to State and local law enforcement.

The vast importance of the Department's role is demonstrated by the growth of its budget in the last two decades. In FY 1979, the Department of Justice's budget was just $2.538 billion. In contrast, the Department of Justice's budget now exceeds $24 billion and it employs more than 125,000 people. Such a vast department requires Congress' full attention. Yet, it is fair to say that Congress has been less than vigilant in its job of overseeing the Department of Justice. Let me be clear that I am not advocating that we micro-manage the Department of Justice. I have full confidence in Attorney General Ashcroft and the thousands of employees who competently manage the Department daily. However, we cannot continue to neglect our responsibility to oversee closely this Department that so profoundly affects the lives of all Americans.

The authorizations contained in the 1979 reauthorization act, the last Justice Department authorization bill that Congress passed, are hopelessly out of date and have been amended, patched, and tweaked by Congress every year since. The lack of a comprehensive authorization has needlessly increased the administrative burden on the Department of Justice by causing them to perform operations inefficiently or to delay implementation of programs until specific authorization is legislated. This bill authorizes and consolidates a host of appropriations authorities and makes them permanent. These authorities are essential to the administration of the Department of Justice and accomplishment of its mission.

I want to take a moment to highlight some of the more important provisions of this bill. Title I of the bill authorizes appropriations for the major components of the Department for FY 2002. Among these authorizations are funding for the Drug Enforcement Administration to combat the trafficking of illegal drugs, the Immigration and Nationalization Service to enforce our country's immigration laws, and the Federal Bureau of Investigation to protect against cybercrime and terrorism. The authorization levels reflect the President's budget in all but two areas. First, the bill increases the President's request for the Department's Inspector General by $10 million. This increase is warranted because the IG's office has been cut severely over the last several years and the need for effective oversight, particularly over the FBI, is essential. Second, the bill increases by $10 million the request for the Computer Crime and Intellectual Property Section within the Department. With the number and severity of computer

crimes growing dramatically each year, this increase will enhance the Department's ability to investigate and prosecute computer related crimes, such as software counterfeiting crimes and denial of service attacks.

Additionally, this bill codifies the Attorney General's recent order that extended the authority of the Inspector General's Office to oversee the programs and operations of the FBI and to investigate allegations of wrongdoing within the Bureau. The bill also directs the Attorney General to submit a report and recommendation to Congress to determine whether to establish an Office of Inspector General for the FBI or an office of Deputy Inspector General for the FBI, which would be responsible for supervising independent oversight of the programs and operations of the FBI. While I am confident that the FBI's new Director, Robert Mueller, has the knowledge and ability to correct some of the bureaucratic and managerial problems the FBI has experienced, I agree with the Attorney General that FBI should be subject to the oversight of the IG. I look forward to the Attorney General's report, and I am sure it will provide guidance as to whether additional measures are warranted to ensure the effective operation of the Bureau.

Finally, the bill establishes a Violence Against Women Office, VAWO, within the Justice Department, which will be headed by a presidentially appointed and Senate confirmed Director. The bill enumerates the duties and responsibilities of the Director and requires the Attorney General to ensure that the Office is staffed adequately. The Director, in part, will serve as a special counsel to the Attorney General on issues related to violence against women, provide information to the President, the Congress, State and local governments, and the general public, and maintain a liaison with the judicial branches of federal and State governments. Establishing this office bespeaks our commitment to reducing violent crimes against women.

This bill is a step in the right direction. It will undoubtedly revive Congress's role and interest in overseeing the Department of Justice. The Judiciary Committee has redoubled its efforts and plans to vote the Department of Justice reauthorization bill out of Committee soon after we return from the August recess. It is a highly important and overdue piece of legislation that deserves our immediate attention, and I am confident that it will receive the support of my colleagues and be enacted this year.

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

S. 1320. a bill to change the date for regularly scheduled Federal elections and establish polling place hours; to the Committee on Rules and Administration.

Mr. KOHL. Madam President, today I am introducing the Weekend Voting Act of 2001. This legislation will change the day for congressional and presidential elections from the first Tuesday in November to the first weekend in November. This legislation is virtually identical to legislation that I first proposed in 1997 in the 105th Congress.

Earlier this week, the National Commission on Federal Election Reform presented its recommendations to the President on how to improve the administration of elections in our country. These recommendations, coming on the heels of the contested Presidential election of last year, lay out some strong ideas for how we can strengthen our election system at a time when Congress may very well take action in this area. As a cosponsor of election reform legislation, I am hopeful that we can pass real election reform this year.

One of the recommendations the National Commission made to the President is that we move Election Day to a national holiday, in particular Veterans Day. As might have been expected, this proposal has not been well received by veterans groups who rightly consider this a diminishment of their service and the day that historically has been designated to honor that service. While I agree with the Commission's goal of moving election day to a non-working day, I believe we can achieve all the benefits of holiday voting without offending our veterans by moving our elections to the weekend.

My proposal for weekend voting would call for the polls to be open the same hours across the continental United States, addressing the challenge of keeping results on one side of the country, or even a State, from influencing voting in places where polls are still open. Moving elections to the weekend will expand the pool of buildings available for poling stations and people available to work at the polls, addressing the critical shortage of poll workers. Weekend voting also has the potential to increase voter turnout by giving all voters ample opportunity to get to the polls without creating a national holiday.

Under this bill, polls would be open nationwide for a uniform period of time from Saturday, 6 p.m. eastern time to Sunday, 6 p.m. eastern time. Polls in other time zones would also open and close at this time. Election officials would be permitted to close polls during the overnight hours if they determine it would be inefficient to keep them open. Because the polls are open from Saturday to Sunday, they also would not interfere with religious observances.

Amidst all the discussion about election reform, there is growing support for uniform polling hours. The free-wheeling atmosphere surrounding election night last November, with the networks calling the outcome of elections in states when polling places were still open in many places, and in some cases even in the very states being called, cannot be repeated. While it is difficut to determine the impact this information has on voter turnout, there is no question that it contributes to the popular sentiment that voting doesn't matter. At the end of the day, as we assess how to make our elections better, we are not only seeking to make voting more equitable, we are also looking for ways to engage Americans in our democracy.

I come from the business world, where you had a perfect gauge of what the public thought of you and your products. If you turned a profit, you knew the public liked your product—if you didn't, you knew you needed to make changes. If customers weren't showing up when your store was open, you knew you had to change your store hours.

In essence, it's time for the American democracy to change its store hours. Since the mid-19th century, election day has been on the first Tuesday of November. Ironically, this date was selected because it was convenient for voters. Tuesdays were traditionally court day, and land-owning voters were often coming to town anyway.

Just as the original selection of our national voting day was done for voter convenience, we must adapt to the changes in our society to make voting easier for the regular family. Sixty percent of all households have two working adults. Since most polls in the United States are open only 12 hours, from 7 a.m. to 7 p.m., voters often have only one or two hours to vote. As we saw in this last election, even with our relatively low voter turnout, long lines in many polling places kept some waiting even longer than one or two hours. If voters have children, and are dropping them off at day care, or if they have a long work commute, there is just not enough time in a workday to vote.

We can do better by offering more flexible voting hours for all Americans, especially working families.

Since I introduced my weekend voting legislation in 1997, a number of States have been experimenting with novel ways to increase voter turnout and satisfaction. Oregon conducted the first presidential elections completely by mail, resulting in impressive increases in voter turnout. Texas has implemented an early voting plan which also resulted in increased turnout. And California has relaxed restrictions on absentee voting, and even had weekend voting in some localities. Although there are security concerns that need to be ironed out, Internet voting has tremendous potential to transform the way we vote. In Arizona's Democratic primary 46 percent of all votes came via the Internet. The Defense Department coordinated a pilot program with several U.S. counties and the Federal Voting Assistance Program to have overseas voters, primarily military voters, cast their votes via the Internet. It is becoming increasingly clear that these new models can increase

voter turnout, and voters are much more pleased with the additional convenience and ease with voting.

For decades we've seen a gradual decline in voter turnout. In 1952, about 63 percent of eligible voters came out to vote—that number dropped to 49 percent in the 1996 election. We saw a minor increase in this past election with voter turnout at 51 percent of eligible voters, however, not a significant increase given the closeness of the election. Non-Presidential year voter turnout is even more abysmal.

Analysts point to a variety of reasons for this drop off. Certainly, common sense suggests that the general decline in voter confidence in government institutions is one logical reason. However, I'd like to point out, one survey of voters and nonvoters suggested that both groups are equally disgruntled with government.

Thus, we must explore ways to make our electoral process more user friendly. We must adjust our institutions to the needs of the American public of the 21st century. Our democracy has always had the amazing capacity to adapt to the challenges thrown before it, and we must continue to do so if our country is to grow and thrive.

Of 44 democracies surveyed, 29 of them allow their citizens to vote on holidays or the weekends. And in nearly every one of these nations, voter turnout surpasses our country's poor performance. We can do better. That is why I am proposing that we consider weekend voting.

I recognize a change of this magnitude may take some time. But the many questions raised by our last election have given us a unique opportunity to reassess all aspects of voting in America. We finally have the momentum to accomplish real reform. How much lower should our citizens' confidence plummet before we adapt and create a more 'consumer-friendly' polling system? How much more should voting turnout decline before we realize we need a change?

The Weekend Voting Act will not solve all of this democracy's problems, but it is a commonsense approach for adapting this grand democratic experiment of the 18th century to the American family's lifestyle of the 21st century.

By Mr. INHOFE (for himself and Mr. NICKLES):

S. 1321. A bill to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma; to the Committee on Indian Affairs.

Mr. INHOFE. Madam President, as many people may be aware, my state of Oklahoma has well over a quarter of a million American Indians. Even Oklahoma derives its name from the Choctaw words, ''okla'' meaning people and ''humma'' meaning red. Today, I am pleased to introduce, along with my colleague, Senator NICKLES, a bill that will provide a grant to help fund the construction and development of the Native American Cultural Center and Museum, which will be centrally located along the North Canadian River at the southeast corner of Interstate 35 and Interstate 40, in Oklahoma City. This project marks the culmination of years of dreaming and planning by many people, including state Senator Kelly Haney, who is recognized worldwide for his Indian art.

The Native American Cultural Center will provide people from all over the world with an extensive picture of American Indians from the earliest civilization in North America, to their current role in today's society. Through art, music and dance, visitors will be able to see the wide array of lifestyles, customs and language of American Indians come alive as they walk through the various displays. The Center will include a 300-seat theater, a museum store, a 40,000 square-foot amphitheater, a festival market place, and artist and dance exhibits. As an affiliate of the Smithsonian Institution, it will share and showcase artifacts from one of the world's most renowned museums. An internationally acclaimed team of architects, planners, engineers, and technical consultants, who have participated in projects from the National Holocaust Museum to films such as Jurassic Park, have come together to create a complex that features the distinct characteristics of all of Oklahoma's tribes.

By bringing economic development and cultural diversity to Oklahoma, the Native American Cultural Center and Museum will not only benefit the people of Oklahoma, but the nation as a whole. This important project will serve as a reminder of the rich heritage of the first Americans as well as a symbol of hope and progress for the future.

Mr. NICKLES. Madam President, today I am pleased to introduce legislation with Senator INHOFE that will bring a long-overdue Native American Cultural Center to Oklahoma.

For many years there has been a desire among Oklahomans to develop a facility to chronicle the history of the 39 tribes that currently reside in Oklahoma. Oklahoma is fortunate to have the second largest Native American population in the country.

Senator INHOFE and I are introducing legislation today that will do just that. The Cultural Center will celebrate the influential role that Native Americans played in our country's history. The Center will also provide a common ground to meet and discuss the issues and concerns that continue to plague our Indian communities. The Cultural Center is a partnership with the Oklahoma Historical Society to become a member of the Smithsonian Affiliations Program.

It is important to note that the Center will assist in communicating the history and culture of all Native Americans, not just Oklahomans.

This project is strongly supported in Oklahoma. In fact, two-thirds of the funds for the Center will come from the State of Oklahoma and private donations, a maximum of one-third coming from the Federal Government.

I look forward to the opening of a state-of-the-art Native American Cultural Center and Museum in Oklahoma.

I want to thank Senator INHOFE for his hard work and I ask the support of my colleagues for this important project.

By Mr. KERRY:

S. 1323. A bill entitled the ''SBIR and STTR Foreign Patent Protection Act of 2001''; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Madam President, today I am introducing a bill to establish a five-year pilot program at the Small Business Administration to help protect the intellectual property of companies that are trying to export promising technology they have developed through the Small Business Administration's Small Business Innovation Research, SBIR, and Small Business Technology Transfer, STTR, programs. This week is a particularly appropriate time to introduce this legislation because 211 years ago, in 1790, the very first U.S. patent was issued. It was issued to Mr. Samuel Hopkins of Pennsylvania and signed by President George Washington himself.

A lot has changed in the past two centuries, but the need to protect intellectual property remains as important as ever. Our forefathers had the wisdom to guarantee ''inventors the exclusive right to their respective . . . discoveries'' in the United States. Today, the need for foreign patent protection is equally critical for international sales.

These small businesses need help because protecting the intellectual property of the technology they export requires them to file for foreign patents, and the costs associated with filing such patents are often prohibitively expensive. We know this because it has been documented through outside research and testimony before the Senate Committee on Small Business and Entrepreneurship. For example, Mr. Clifford Hoyt, who is vice president and chief technology officer of Cambridge Research and Instrumentation, testified on June 21st, as part of the Committee's hearing on reauthorization of the STTR program, that ''patent protection in Europe is $20,000.'' Information from the American Intellectual Property Law Association's, AIPLA, spring meeting shows that the costs of foreign patents range from $7,200 in Canada to $27,200 in Japan. Those costs include fees for filing, examination, translation and attorneys.

Interestingly enough, foreign patent protection costs are not just an obstacle for small businesses; they also affect our universities. Let me quote Dr. Anthony Pirri, who is director of technology transfer for Northeastern University in Boston and also testified at the STTR hearing: ''For universities

like Northeastern with limited resources, the patent expense burden is large. It is especially large because many of our technologies have international significance and require us to patent, do foreign filings. Therefore, anything you can do to help in that world would be very desirable.''

This problem was first identified in 1996 through a research study financed by the SBA's Office of Advocacy entitled ''Foreign Patenting Behavior in Small and Large Firms.'' That study found that ''technology-based small businesses were filing fewer patents overseas than large businesses for similar innovative products primarily due to a lack of funds to obtain foreign patents.''

Foreign patent protection is important to eventual commercialization. However, if technologies of small businesses aren't protected, large foreign-owned firms can replicate the product and benefit directly from a U.S. Federally funded research effort.

I am obviously concerned about this. To help small innovative companies overcome such barriers, and to maximize our investment in the SBIR and STTR technologies, the Small Business Administration, SBA, should be authorized to provide grants to underwrite the costs of initial foreign patent applications filed by SBIR and STTR companies. Ultimately, the goal is for the grant fund to be self-sustaining, generating revenue from a percentage of the relevant technology's export sales and/or licensing fees.

Here's how the grants would work: The SBA would be authorized to award grants of up to $25,000 to companies seeking foreign patent protection for their technology or product developed under the SBIR and STTR programs. Each company would be limited to one grant and, in order to be eligible for the grant, it must have already filed for patent protection in the United States. Both of these provisions are designed to ensure, to the extent possible, that companies apply for their most promising technology and therefore return money to the grant fund. By giving the companies only one shot at a grant to protect and make money from their SBIR or STTR technologies, it forces them to select the one most likely to succeed and have sales. At the same time, requiring companies to have already filed for patent protection in the United States prior to seeking a foreign patent grant is a gauge of the company's confidence in the commercial potential of its technology. It also demonstrates the company's commitment to protecting that technology.

The bill establishes the program at $2.5 million in the first year and increases that amount gradually over four years to $10 million annually.

In FY2003, the bill authorizes $2.5 million, in order to fund 100 grants of $25,000.

In FY2004, the bill authorizes $5 million, in order to fund 200 grants of $25,000.

In FY2005, the bill authorizes $7.5 million, in order to fund 300 grants of $25,000.

In FY2006 and FY2007, the bill authorizes $10 million a year, in order to fund 400 grants of $25,000.

As I said earlier, ultimately the goal is for this to be a self-sustaining grant fund. To realize that money, in return for the grants, each recipient would be obligated to pay between three percent and five percent of its related export sales or licensing fees to the fund, to be known as the ''SBIR and STTR Foreign Patent Protection Grant Fund.'' To maintain a reasonable incentive for the small businesses, the total amount would be capped at four times the amount of the grant, which for a $25,000 grant would be $100,000.

I have talked about many of the needs and merits of this legislation, but in closing I would like to add that increased, successful exports by our innovative small businesses could mean a lot to the U.S. economy overall. We have seen the balance of trade deficits rise steadily for many years. According to the U.S. Census Bureau's Foreign Trade Division, in last year alone our country's trade balance deficit was $436 billion. The first four months of 2001 are slightly worse. We should be doing everything that we can to improve upon our exports, and small businesses can play an important role in that arena.

I hope that my colleagues will join me in sponsoring this bill. This pilot, if enacted and implemented properly, has the potential to greatly benefit small businesses, protect their innovations and promote their exports.

I thank the President and ask 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. 1323

SECTION 1. SHORT TITLE.

This Act may be cited as the ''SBIR and STTR Foreign Patent Protection Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) small business concerns represent approximately 96 percent of all exporters of goods;

(2) there has been dynamic growth in the number of small business concerns exporting goods, and the dollar value of their exports;

(3) despite such growth, small business concerns encounter problems in obtaining financing for exports;

(4) growth in United States exports will depend primarily on technology innovation, making the protection of intellectual property in the global market of special national interest;

(5) the costs of filing for initial patent protection in foreign markets can be prohibitive for small business concerns involved in the Small Business Innovation Research Program (referred to in this section as ''SBIR'') and the Small Business Technology Transfer Program (referred to in this section as ''STTR''), representing an insurmountable barrier to obtaining the protection needed to pursue the international markets;

(6) to overcome such barriers and to maximize the Federal investment in the SBIR and STTR programs, the Small Business Administration should be authorized to provide grants to be used to underwrite the costs of initial foreign patent applications by SBIR and STTR awardees; and

(7) a program established to provide such grants should, over time, become self funding.

SEC. 3. ESTABLISHMENT OF GRANT PILOT PROGRAM.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(w) FOREIGN PATENT PROTECTION GRANT PILOT PROGRAM.—

''(1) GRANTS AUTHORIZED.—The Administrator shall make grants from the Fund established under paragraph (6) for the purpose of assisting SBIR and STTR awardees in seeking foreign patent protection in accordance with this subsection.

''(2) NUMBER OF GRANTS.—The Administrator shall make grants under this subsection to not more than—

''(A) a total of 100 SBIR and STTR awardees in fiscal year 2003;

''(B) a total of 200 SBIR and STTR awardees in fiscal year 2004;

''(C) a total of 300 SBIR and STTR awardees in fiscal year 2005; and

''(D) a total of 400 SBIR and STTR awardees in each of fiscal years 2006 and 2007.

''(3) GRANT PURPOSES.—Grants made under this subsection shall be used by awardees to underwrite costs associated with initial foreign patent applications for technologies or products developed under the SBIR or STTR program, and for which an application for United States patent protection has already been filed.

''(4) CONSIDERATIONS.—In awarding grants under this subsection, the Administrator shall consider—

''(A) the size and financial need of the applicant;

''(B) the potential foreign market for the technology;

''(C) the time frames for filing foreign patent applications; and

''(D) such other factors as the Administrator deems relevant.

''(5) GRANT AMOUNTS.—The amount of a grant made to any SBIR or STTR awardee under this subsection may not exceed $25,000, and no awardee may receive more than 1 grant under this subsection.

''(6) ESTABLISHMENT OF REVOLVING FUND.—There is established in the Treasury of the United States a revolving fund, which shall be—

''(A) known as the 'SBIR and STTR Foreign Patent Protection Grant Fund' (referred to in this subsection as the 'Fund');

''(B) administered by the Office of Technology of the Administration; and

''(C) used solely to fund grants under this subsection and to pay the costs to the Administration of administering those grants.

''(7) ROYALTY FEES.—

''(A) IN GENERAL.—Each recipient of a grant under this subsection shall pay a fee to the Administration, to be deposited into the Fund, based on the export sales receipts or licensing fees, if any, from the product or technology that is the subject of the foreign patent petition.

''(B) ANNUAL INSTALLMENTS BASED ON RECEIPTS.—The fee required under subparagraph (A)—

''(i) shall be paid to the Administration in annual installments, based on the export sales receipts or licensing fees described in subparagraph (A) that are collected by the grant recipient in that calendar year;

''(ii) shall not be required to be paid in any calendar year in which no export sales receipts or licensing fees described in subparagraph (A) are collected by the grant recipient; and

''(iii) shall not exceed, in total, the lesser of—

''(I) an amount between 3 percent and 5 percent, as determined by the Administrator, of the total export sales receipts and licensing fees referred to in subparagraph (A); or

''(II) 4 times the amount of the grant received.

''(8) ADMINISTRATIVE PROVISIONS.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall—

''(A) issue such regulations as are necessary to carry out this subsection; and

''(B) establish appropriate application and other administrative procedures, as the Administrator deems necessary.

''(9) REPORT.—The Administrator shall, on January 31, 2006, submit a report to the Congress on the grants authorized by this subsection, which report shall include—

''(A) the number of grant recipients under this subsection since the date of enactment of this subsection;

''(B) the number of such grant recipients that have made foreign sales (or granted licenses to make foreign sales) of technologies or products developed under the SBIR or STTR program;

''(C) the total amount of fees paid into the Fund by recipients of grants under this subsection in accordance with paragraph (7);

''(D) recommendations for any adjustment in the percentages specified in paragraph (7)(B)(iii)(I) or the amount specified in paragraph (7)(B)(iii)(II) necessary to reduce to zero the cost to the Administration of making grants under this subsection; and

''(E) any recommendations of the Administrator regarding whether authorization for grants under this subsection should be extended, and any necessary legislation related to such an extension.

''(10) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund, to remain available until expended—

''(A) $2,500,000 for fiscal years 2003;

''(B) $5,000,000 for fiscal year 2004;

''(C) $7,500,000 for fiscal year 2005; and

''(D) $10,000,000 for each of fiscal years 2006 and 2007.''.

By Mr. LIEBERMAN:

S. 1324. A bill to provide relief from the alternative minimum tax with respect to incentive stock options exercised during 2000; to the Committee on Finance.

Mr. LIEBERMAN. Madam President, today I am introducing a second proposal with regard to the perverse impact of the Alternative Minimum Tax, AMT, on Incentive Stock Options, ISOs. I previously introduced a bill, S. 1142, addressing this issue going forward and today I am introducing a bill to provide relief to the victims of this perverse tax who filed returns and paid taxes this past April. As I will explain, they were hit by the tax equivalent of the perfect storm.

The argument for reform of the AMT as applied to ISOs is overwhelming. An employee who receives ISOs is taxed on the phantom paper gains the tax code deems to exist when he or she exercises an option, and is required to pay the AMT tax on these ''gains'' even if the ''gains'' do not, in fact, exist. This means the taxpayer may have no gains, no profits or assets, with which to pay the AMT and might even have to borrow funds to pay the tax, go into default on his or her AMT liability, or even declare bankruptcy.

This Kafkaesque situation is unfair. It is not fair to impose tax on ''income'' or ''gains'' unless the income or gains exist. With the AMT tax on ISOs, it is not relevant if the ''gains'' exist in a financial sense. That they exist on paper is sufficient to trigger the tax.

In terms of providing relief to taxpayers hit with the AMT on ISOs in their filing for 2000 taxes, let me make a series of points.

First, there have been victims of the AMT/ISO tax going back before 2000. But, there were an unprecedented number of victims this last year due to a convergence of events.

Over the last decade, more and more companies have adopted broad-based stock option plans where all or almost all employees are granted ISOs, rather than only senior management.

In addition, the internet and telecommunications boom spawned an unprecedented number of start-up companies over the last few years.

These start-ups overwhelmingly favor the use of ISOs as a means of attracting and motivating employees, and many of these companies grant options to most, if not all of their employees.

Then, as we all know, the stock market, especially the technology-driven NASDAQ, posted record highs in the spring of 2000, and then collapsed over the next 12 months, astounding even seasoned professionals. Many of the high-flying technology companies saw their stock value drop 80 percent to 90 percent during this period.

As a result, the relatively unknown AMT caught many employees by surprise. Other employees were aware of the AMT but thought they could claim a full credit for the AMT once they sold the stock acquired by exercise of ISOs. Some were unable to sell before year-end, in order to eliminate the AMT hit, by trading restrictions. Others were naive in thinking that the value of the shares they held would rebound in 2001, in time to sell the stock and pay their AMT liability for 2000.

In short, in tax year 2000 we saw the tax equivalent of the perfect storm.

Second, the imposition of AMT on individuals discourages the very behavior that Congress wanted to encourage with the creation of ISOs. In 1984, the Senate Finance Committee noted the goal of ISOs to ''encourage employee ownership of the stock on an employer's business'' by allowing for ''the deferral of tax until an employee disposes of the stock received through the exercise of an employee stock option''. To encourage individuals to hold shares with the promise of capital gains tax rates is the goal, but it is a goal that is defeated when the AMT is imposed at the time they exercise an option even if the ''gains'' are never realized. The taxpayers who held their shares and realized gain are the ones who deserve relief. They fell into a trap which the tax code created through its perverse and confusing structure.

Third, the trap was one that many of these employees did not understand. They rightly assumed that the AMT was directed at taxing the wealthy and could not possibly affect them. This is a case where the complexity of the tax and the contradictory incentives it provides for ISOs lured the victims into the trap.

Fourth, we are likely to see a major debate on AMT reform, but this is a broader debate about the fundamentals of the tax code, not a tax trap like we have with ISOs. An increasing number of taxpayers find themselves paying the AMT because they have large state tax deductions or large numbers of personal exemptions. The AMT is likely to snare 1.5 million taxpayers this year and nearly 36 million by 2010. The AMT they may pay may be infuriating, but it would normally not substantially increase their overall tax liability. The AMT paid because of ISOs can be hundreds of thousands or even millions of dollars and can be devastating. It can cause a tax liability that is many times the taxpayer's total income. This is a problem that needs to be addressed not, now when we finally take up broad-based AMT reform.

Let me be clear about the cost and budget implications of my bill. The Joint Tax Committee on Taxation has found that my proposal would reduce government tax revenues by $1.3 billion over ten years. This is substantially less expensive than the cost of my earlier bill, which was estimated to cost $12.412 billion over ten years. I will not propose to enact my bill unless this sum is financed and will have no impact on the Federal budget.

The budget situation we face will not make it easy to enact these reforms. The massive tax cut of $1.3 trillion was financed from the surpluses. We are now finding that it was, as I and others feared, way too large and leaves us no room to take up additional tax measures. In fact, just last week we saw reports of a memo leaked where Republicans predicting that the Congressional Budget Office deficit/budget updates in August would find that we have zero available surplus beyond the Social Security and Medicare trust funds in fiscal year 2002 and that Congress may have to dip into those trust funds by nearly $41 billion in fiscal year 2003. If this is true, it would leave no additional non-trust fund surplus dollars available for other uses, such as growth tax incentives, fixing the ISO/AMT problem, education, energy or defense, in fiscal year 2002. The fiscal year 2002 budget resolution bars Congress from spending any money in either the Social Security or Medicare Part A trust funds for any purpose other than Medicare or Social Security.

I recount this here because it means that we must find a revenue or spending offset to finance our ISO/AMT proposal, or any other growth tax incentive. We cannot use the surplus. This raises a substantial barrier to enactment of this proposal and it is a barrier that we could have easily avoided had we enacted a tax cut we could afford.

I am pleased that today Rep. RICHARD NEAL, TOM DAVIS, ZOE LOFGREN, and JERRY WELLER are introducing the same bill in the other body. Earlier, Representative LOFGREN introduced H.R. 1487, a bipartisan bill that has given a great deal of visibility to this issue. I look forward to working with my distinguished House colleagues to remedy this inequity in the tax code, both for victims in 2000 and going forward.

Finally, let me note that I have proposed in S. 1134 to provide a special capital gains tax rate, in fact to set a zero tax rate, for stock purchased by employees in stock option plans, by investors in Initial Public Offerings, and similar purchases of company treasury stock. This zero rate would be effective, however, only if the shares are held for at least three years, so the AMT gamble with ISOs would be even more dramatic. During the first year of that holding period, the AMT would have to be paid and during the remaining period the value of the stock could well dive from the exercise price creating an even more invidious trap.

We need to fix the ISO/AMT problem so that capital gains incentives for entrepreneurs will work as intended and provide the boost to economic growth.

We need also to focus on the victims of the 2000 perfect storm.

I ask that two documents be printed at this point in the RECORD, an explanation of my bill and a comparison of incentive and nonstatutory stock options. Both have been prepared by professionals with accounting firms.

INCENTIVE STOCK OPTIONS AND THE ALTERNATIVE MINIMUM TAX—AN EXPLANATION OF THE LIEBERMAN-NEAL-DAVIS-LOFGREN-WELLER PROPOSAL

Issue: The difference between the exercise price and the fair market value at the time of exercise, the ''spread'', of stock obtained with an incentive stock option, ''ISO'', is a tax preference for purposes of the individual alternative minimum tax, ''AMT''. If the ISO preference causes a taxpayer to pay the AMT for the year of exercise, there may be a tax credit carryforward that is available to offset regular tax in a future year. However, if the stock declines significantly in value between the date of exercise and the date of its sale, there may not be sufficient regular income in any future year to utilize the AMT credit. As a result, a taxpayer may pay significant permanent AMT for what was intended to be only a ''timing'' preference. This problem is particularly acute for individuals who exercised incentive stock options in 2000, prior to the significant decline in the stock values of many companies.

Example: In January, 2000, a sales manager for Silicon Valley Company exercises options for 15,000 shares of stock with an exercise price of $5 per share, the fair market of the stock when the options were granted in 1997. At the date of exercise, the stock is trading at $125 per share. The spread gives rise to an AMT tax preference of $1.8 million and generates a net AMT liability for 2000 of approximately $500,000.00, over and above the manager's tax liability on her $60,000 annual salary. Since ISO stock retained for at least a year from the date of exercise is eligible for capital gains treatment, manager does not immediately sell her ISO shares. In April 2001, the company and the stock market have setbacks and the stock again trades at $5 per share.

Under current law, the amount of AMT credit that the manager can use annually is limited to approximately $5,000, her expected regular tax over her AMT tax. As a result, it would take roughly 100 years for the AMT credits to be fully utilized.

Lieberman/Neal/Davis/Lofgren/Weller Proposal: Limits the amount of the AMT preference resulting from the exercise of an incentive stock option in 2000 to an amount based on the fair market value of the stock as of April 15, 2001, or, if such stock is sold or exchanged on or before that date, to the amount realized on such sale or exchange.

Example: Under the same facts as above, a sales manager who acquired stock through the exercise of an incentive stock option would use the $5 per share April 15, 2001 fair market value of the stock to calculate the AMT preference amount. If the manager has already filed her 2000 tax return, she would file an amended return for the 2000 tax year to reflect the revised AMT preference amount of $0.00, the revised April 15, 2001 fair market value of $5.00 per share equals the original $5.00 per share exercise price.

COMPARISON OF INCENTIVE AND NONSTATUTORY STOCK OPTIONS

The following is a broad overview of the basic tax concepts that apply to U.S. taxpayers who receive stock options granted by U.S. companies, for services rendered. It does not address the tax consequences for non-U.S. taxpayers or the company issuing the options. This outline assumes that the stock received upon exercise is not restricted within the meaning of IRC section 83. If there are restrictions on the stock received upon exercise, the tax consequences will differ significantly from that described in this outline.

TERMS

Grant Date—This is the date the stock options are granted to you by the company. This date generally is reset if the terms of the stock option are changed; e.g. exercise price is lowered.

Exercise Price—This is the price you have to pay to purchase a share of stock under the terms of the option agreement.

Vesting Date—This is the date that you earn the right to exercise your options. For example, your shares may vest over four years, starting after one year. In this case, on each anniversary of the grant date you earn the right to exercise one fourth of your options.

Exercise Date—This is the day you exercise your stock options by paying the exercise price to purchase the shares in which you are vested.

Fair Market Value—This is the true value of the stock at any given date, usually determined by the price at which the stock is trading for on an established exchange. For a private company, the fair market value should be determined by an independent third party appraisal. If the company does not have an outside appraisal performed, the Board should establish the value using appropriate methods and current information.

Spread on Exercise Date—This is the difference between the exercise price (what you pay for the stock) and the fair market value (what the stock is worth) at the time you exercise your stock options. This is often referred to as the bargain element.

Sale Date—This is the day you sell the shares of stock you had previously purchased on the exercise date.

Spread on Sale Date—This is the difference between the exercise price (what you paid for the stock) and the fair market value (what the stock is worth) on the day you sell your shares.

Incentive Stock Options (ISOs)—These are stock options that qualify for special tax treatment by meeting a number of special rules, the details of which are not included in this memo. One of the key requirements is that the exercise price is at least equal to the fair market value at the date of grant. ISOs are contrasted with Nonstatutory Stock Options in the following table.

Nonstatutory Stock Options (NSOs; also referred to as NQOs, as in nonqualified)—These are stock options that do not meet all the rules for ISOs. They are less tax favored, but generally more flexible.

COMPARISON OF TAX CONSEQUENCES—INCENTIVE STOCK OPTION VS. NONSTATUTORY STOCK OPTIONS

Event	Incentive stock options	Nonstatutory stock options
Grant Date: For example, you are granted the right to purchase 1,000 shares at $1.50 per share vesting over 4 years.	The grant of an incentive stock option is not a taxable event	The grant of a nonstatutory stock option is almost always not a taxable event. For this comparison, we'll assume it is not a taxable event.
Vesting Date: For example, after one year you have the right to purchase 250 shares.	Vesting is not a taxable event	Vesting is not a taxable event.
Exercise Date: For example, you pay $1,500 and purchase all 1,000 shares when they are worth $13.50 each, i.e. $13,500 for a spread of $12,000. (This discussion assumes the shares received upon exercise are not restricted under tax law).	ISOs: The exercise of ISOs is not a taxable event for regular tax. However, the spread or bargain element is a tax preference item for the alternative minimum tax (AMT), unless you exercise and sell your ISO stock within the same year, in which case AMT does not apply.	NSOs: The spread at exercise ($12 per share) is compensation income, reportable on your W–2 and subject to income and payroll tax withholding. You get tax basis in the stock equal to the Fair Market Value on the exercise date, i.e. $13.50 per share. AMT does not apply to NSOs.
Sale Date: For example, you hold the shares for a while and then sell them for $15.00 each; i.e. you sell the stock for $15,000 that had cost $1,500, for a gain of $13,500.	If you meet the holding rules below, the entire spread ($13,500) on the date of sale is taxed as a capital gain. Regardless of how long you hold the stock, you get a credit for any alternative minimum tax you may have paid upon exercise, but you may not be able to use it all in any given year.	The difference between the sale price, i.e. $15.00 and tax basis of $13.50 is a capital gain. (You already paid tax on the $12 per share spread at exercise.) For sales after 12/31/97, you must hold the shares for more than one year to get long term capital gain treatment. You could also have loss, if so, it would be a capital loss.
Special ISO Holding Rule	You must hold your ISO shares for more than one year from the date of exercise and two years from the grant date before you sell them; in order to have the entire spread taxed as a capital gain. Meeting these holding periods converts the spread (i.e. the bargain element on the date of exercise) from ordinary income to long term capital gains, taxed at a lower rate.	An earlier sale turns the tax treatment of an ISO into that of an NSO. The spread on exercise date (or the spread on sale, if less) is taxed as compensation, reportable on your W–2, but only in the year of sale. If the sale occurs in a year after the year of exercise, you still are subject to alternative minimum tax in the year of exercise (based on the spread at exercise).

By Mr. MURKOWSKI:

S. 1325. A bill to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Madam President, I rise today to introduce legislation which will facilitate and promote the successful commercial reuse of the former Naval Air Facility on Adak Island, AK . At the same time, this legislation will allow the Aleut people of Alaska to reclaim the island and to make use of its modern infrastructure and important location.

The legislation I introduce today is very similar to a bill I introduced nearly four years ago in the 105th Congress. It ratifies an agreement between the Aleut Corporation, an Alaska Native Regional Corporation, the Department of the Interior and the Department of the Navy. In 1997, The Aleut Corporation, the U.S. Navy and the Interior Department were still in the process of negotiating and structuring the Agreement to provide for the fair and responsible transfer of the former military facility. I am pleased to tell you that ''The Agreement Concerning the Conveyance of Property at the Adak Naval Complex, Adak AK'' was signed last September. Thus, the time is now appropriate for Congress to consider the Agreement and ratify its provisions to allow for final transfer.

The bill and the Agreement also further the conservation of important wildlife habitat within the Aleutian Islands region of Alaska. A portion of Adak is within the Aleutian Islands subunit of the Alaska Maritime National Wildlife Refuge. The Agreement facilitates the Department of the Inferior's continued management and protection of the Refuge lands on Adak and even adds some of the Navy lands to the Refuge. More importantly, in exchange for the developed Navy lands, which are not suitable for the Refuge but are commercially useful, the Aleut Corporation will convey environmentally sensitive lands it holds elsewhere in the Refuge to the Department of the Interior. Thus, not only are the former military lands put to productive use, but the Refuge gains valuable new habitat.

For many years the Navy has played an important role in Alaska's Aleutian Chain. Its presence was first established during World War II with the selection and development of the island because of Adak's ability to support a major airfield and its natural and protected deep water port. The Navy's presence contributed greatly to the defense of our Pacific coast during World War II and throughout the Cold War. Through the Navy's presence, Adak became the largest development in the Aleutians as well as Alaska's sixth largest community. With the end of the Cold War our defense needs changed, however, and Adak was selected for closure during the last base closure round.

Those very same features that made Adak strategically important for defense purposes also make it important for commercial purposes. Adak is a natural stepping stone to Asia and is at the crossroads of air and sea trade between North America, Europe and Asia. With the ability to use Adak commercially, the Aleut people, through The Aleut Corporation, can establish it as an important intercontinental location with sufficient enterprise to provide year round jobs for the Aleut people. These goals are consistent with the promises and the Alaska Native Claims Settlement Act, the legislation that created the corporation.

This rebirth of Adak is already well underway. The local Aleut residents assumed responsibility for the operation of the Island from the Navy last October and there are a number of new commercial enterprises and endeavors. At the same time a new community has begun to take shape. Just last month the new City of Adak was established as a result of a public referendum and it is now in the process of taking over responsibility for the docks, utilities, roads and other public facilities.

The Agreement resolves a number of important issues related to the transfer of this former military base and the establishment of the new community on Adak, including responsibility for environmental remediation, institutional controls, indemnification, required public access and reservation of lands for government use. The environmental remediation work of the Navy is still ongoing and will continue to an extent for several more years. However, all the interested parties agree that a final transfer can occur within the next twelve months. Hence the need for this legislation.

This bill furthers our Nation's objective of conversion of closed defense facilities into successful commercial reuse, it benefits the Aleut people and restores them to their ancestral lands and it benefits the National Wildlife Refuge System. I believe everyone will agree that such legislation is important and worthy of our support.

By Mr. LUGAR:

S. 1326. a bill to extend and improve working lands and other conservation programs administered by the Secretary of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LUGAR. Madam President, I rise today to introduce the Working Lands Conservation Act. The bill is intended to achieve two major goals: first, to assist our farmers and ranchers in meeting short-term environmental challenges, such as water and air quality concerns and the regulation of animal feeding operations; and, secondly, to enhance the long-term quality of our environment and sustainability of our natural resources.

As some of my colleagues may recall, the Senate Agriculture Committee has a long history of bipartisan cooperation on conservation. From the Conservation Reserve, to the Wetlands Reserve, to the Environmental Quality Incentives Program, we have conscientiously sought to do what is best for our Nation's environment. We have laid aside partisan differences when it has come to conservation and our natural resources are better because of our joint efforts.

In that spirit, my bill joins those of several of my colleagues and represents a foundation for our work on the conservation title of the farm bill. Senator HARKIN has introduced the Conservation Security Act—an innovative idea that would reward good conservation farmers for their environmental efforts and thus foster conservation and environmental improvements.

Senators CRAIG, FEINSTEIN, and THOMAS have introduced a Grasslands Reserve Act that would protect and restore one million acres of our fragile grasslands while allowing the owners to maintain economic use of the land. Senators HUTCHINSON and LINCOLN have a bill that reauthorizes and expands the Wetlands Reserve Program.

Senator CRAPO has introduced a bill, of which I am a cosponsor, that covers many of the items in the conservation title of the current farm bill. I know he has put much thought into his bill and I look forward to working with him and my other colleagues as we fashion the conservation title of the new farm bill.

While there are many valid approaches on how we should foster improvements in our environment, this bill invests in our working lands—the land we use to grow our food, our fiber; the land we depend upon for sustenance. This working land cropland, pasture, rengeland, and private forests, makes up some 70 percent of the land areas of the contiguous 48 States. How this land is managed has profound effects on our economy and environment. The farm bill we are cross developing is one of the most important pieces of environmental and natural resource legislation this Congress will address. It is essential that the conservation title be a major component of the legislation we develop together.

Since 1985, the last time Congress made a major investment in conservation as part of a farm bill, we have spent most of our conservation dollars through programs that set aside productive cropland as a primary means of achieving our environmental goals. These efforts are certainly worthwhile and I support continuing them. Indeed the preeminent land-idling program we have, the Conservation Reserve, was introduced on my farm in Indiana and I continue to support it.

But we cannot land-idle our way to environment performance. The folly of this, solely from a resource conservation standpoint—is evident from the situation we now see after fifteen years

of extensive land idling through the Conservation Reserve. After having set aside up to 36.4 million acres at one point, State water quality reports today will name nonpoint source pollution as the Nation's biggest water quality challenge and agriculture as the biggest culprit, primarily due to sediment, nutrient loadings, and pathogens. While the Conservation Reserve has many benefits, particularly wildlife habitat in the Great Plains, it is obvious that large-scale land-idling schemes will not solve all of the problems associated with water and air quality. Yet these are the environmental challenges that confront most farmers today, and the ones most likely to result in costly new regulation for our farmers and ranchers. How we deal with these environmental challenges will affect the commercial viability of farming and ranching over the next decade.

A quick review of how we are spending our voluntary conservation dollars will show just how much ground we have to make up. In 1985, 97 cents of every financial assistance dollar from the U.S. Department of Agriculture went to working lands; three cents went to land retirement. Today, the situation is nearly reversed with some 85 cents going toward land retirement, primarily through the Conservation Reserve, and only 15 cents going toward working lands. This over-reliance on removing land from production comes at the expense of caring for working lands, and, given the contemporary environmental issues facing landowners, this imbalance must be addressed during our reauthorization of the farm bill.

For our working lands to continue to be productive, and to ensure that agriculture can tend to its environmental concerns, I believe that the overarching goal of the new conservation title should be to emphasize conservation on working agricultural lands. Much as President Theodore Roosevelt championed public land conservation early in the last century, today we must champion the care of our working lands.

Bringing conservation programs up to levels needed to address priority issues will require new funding. If you exclude the short-term emergency funding, the budget resolution provides an additional $66.15 billion for agriculture above the baseline. I believe that a significant portion of this new spending should be devoted to conservation. My bill increases mandatory conservation spending by approximately $2 billion per year. This amount would effectively double our investment in voluntary, incentive-based conservation programs. And, because of the funding provided by the budget resolution, we can enhance our working lands programs without cutting or diminishing our existing land retirement programs.

To focus on working lands, our first order of business is to strengthen the Environmental Quality Incentives Program. EQIP, as it is called, offers financial, technical and educational assistance to farmers and ranchers and is generally seen as the workhorse conservation program for working lands. Congress created EQIP in 1996 by merging four other conservation programs and provided $200 million a year in mandatory spending. Today, requests for EQIP assistance far outstrip available funds and analyses show there is a demonstrated need for an additional $1.2 billion per year to address the anticipated needs of the livestock industry alone. My bill established national priorities for EQIP, makes several needed reforms to the program such as shortening the length of the contract and removing discriminatory size restrictions, and provides $1.5 billion a year to be phased-in over a three year period.

In addition, my bill provides more flexibility and financial incentives within EQIP to create partnerships at the state and local level, partnerships that are essential to meeting the environmental challenges agriculture faces. My bill establishes a grants section within EQIP to leverage federal funds with funding from non-federal entities and encourages states to develop plans that bring together multiple Federal, State, and local programs to create coordinated conservation initiatives to address critical environmental challenges. There is already good experience on this score through the Conservation Reserve Enhancement Program and the continuous signup program for buffer practices.

My bill expands this concept by making private and other non-federal entities eligible for a special $100 million matching grant program within EQIP. The grant program would create cooperative federal/non-federal ventures that would spur conservation on private lands through market-based initiatives. Under my proposal, non-federal entities would bid to have their projects approved and then combine their funds with federal money to stimulate more use of market-based solutions in areas such as water quality or carbon credit trading. For example, drinking water suppliers facing the necessity, and cost, of building new treatment facilities might find it less expensive to pay upstream farmers and ranchers to voluntarily make reductions in pollutant discharges, thereby obviating the need for new treatment facilities. Taken together, these provisions will spark creative and innovative approaches to conservation that work better for farmers, ranchers, communities, and the environment.

Reforming, adequately funding, and focusing the Environmental Quality Incentives Program on national environmental issues will dramatically accelerate the amount of conservation on our landscape. But it will also require that we resolve one of the key problems we face today—the lack of qualified technical assistance to help our farmers and ranchers plan, design, install, and maintain conservation practices. Insufficient annual appropriations for USDA's Natural Resources Conservation Service over the past decade have caused a steady decline in real terms in the number of field staff available to give landowners technical advice. At the same time, demand for technical assistance has ballooned as producers grapple with conservation challenges.

My bill ensures that technical assistance will be available to implement conservation by reforming the so-called section 11 Cap in the Commodity Credit Corporation Charter Act. The Commodity Credit Corporation is allowed to reimburse agencies for work they do for the various programs under the Corporation, but the section 11 cap limits total reimbursements to no more than $36.2 million annually. The cap was put on by Congress to control computer purchases by the Department of Agriculture, but is has also had the unintended side effect of limiting technical assistance reimbursement for conservation programs. To resolve the problem, my bill exempts conservation technical assistance reimbursements from the cap.

Reforming the section 11 Cap will help solve part of the problem, but my bill also looks to the private and nonprofit sector to help fill the technical assistance gap. Crop advisors, farm managers, private agronomists and engineers, conservation district professionals, and other qualified individuals could help fill the technical assistance gap for many landowners who are willing to pay for their services. My bill creates a fee-based certification program within USDA to increase the number of technical assistance providers and provides for the use of incentive payments to help farmers and ranchers pay for qualified technical assistance for nutrient management plans. In all cases, work done by third parties would have to meet the technical standards of the Natural Resources Conservation Service.

Maintaining the confidentiality of producer information contained in USDA files is vital to voluntary private lands conservation. Farmers and ranchers must be confident that their private business information will not be compromised if they participate in a conservation program. Farmers and ranchers are increasingly concerned about this issue as both government agencies and non-governmental entities have attempted to secure USDA data for regulatory purposes. In order to maintain the trust that exists between producers and USDA, my bill includes provisions to protect the confidentiality of the information farmers and ranchers disclose when developing and implementing conservation plans without affecting current Freedom of Information Act procedures.

Strengthening EQIP and our technical assistance capabilities are the two most important priorities my bill

addresses. But there are other programs that add important features to a comprehensive conservation program that my bill reauthorizes and funds.

My bill reauthorizes and increase funding for the Wildlife Habitat Incentives program. Created in the 1996 farm bill, this program provides technical and financial assistance to landowners that agree to develop wildlife habitat. The program was originally funded at $50 million over the seven year life of the 1996 farm bill. My bill increases the funding level to $50 million per year, devoting an aggregate of one-half billion dollars to wildlife habitat over the life of the bill.

Similarly, my bill reauthorizes, amends, and increase funding for the Farmland Protection Program. This voluntary program, also created in the 1996 farm bill, assist state and local programs purchase development rights on farms and helps farmers on the urban-rural interface stay in farming. The program has been lauded for its assistance to communities wishing to preserve agriculture, open space, wildlife habitat and other environmental benefits. My bill expands participation in the program to non-profit organizations, allows grassland easements, and increases funding to $65 million per year.

My bill preserves the Conservation Reserve Program at its current level of 36.4 million acres. This leaves room for enrolling more than 2 million acres of additional land right now, as well as the acres that become available as existing contracts expire. The bill amends the program to create an incentive to increase the amount of hardwood trees entering the program and statutorily reserves 4 million acres for the continuous signup and for the Conservation Reserve Enhancement Program. Both the continuous signup and the Conservation Reserve Enhancement Program target high priority environmental concerns such as water quality.

My bill also makes a major new commitment to wetland restoration through the Wetlands Reserve Program by reauthorizing the program and adding 2.5 million acres to the enrollment authorization, more than doubling the rate of wetland restoration we have achieved since 1990. Of the new acreage, the bill targets 50,000 acres of wetland restoration a year to cooperative agreements with States for high priority environmental needs such as hypoxia, eutrophication, wildlife habitat, flooding, and groundwater recharge.

In the area of reform, within existing USDA conservation programs there are numerous overlaps and redundancies. My bill requires the Secretary of Agriculture to aggressively look at the entire range of USDA conservation programs to identify program overlaps, explore potential consolidations, develop ways to simplify and streamline program administration, and then report her recommendations to Congress.

As we continue the process of reauthorizing the farm bill, several fundamental choices lie before us and will require us to make decisions that will set the course of voluntary private lands conservation efforts for the next decade. The choices we make will determine the overall health of our environment. The Working Lands Conservation Act provides a solid basis for making those conservation decisions. The bill helps restore balance between working lands programs and landidling programs without cutting popular programs such as the Conservation Reserve. The focus of my conservation reforms is to assist farmers and ranchers to not only meet regulatory requirements, but to proactively resolve them before they enter a regulatory context. It increases the coherence of conservation policy, protects producer confidentiality, and assures that more technical assistance will be available to our farmers and ranchers.

As a Nation, we entrust the care of over 50 percent of our land to just two percent of our citizens—the farmers and ranchers who work the land and produce the food and fiber we demand. This bill recognizes that farmers and ranchers are much more than food and fiber producers. They are the most important natural resource managers in this Nation. My bill will give them the technical and financial tools they need to care for the land—and our environment, as they make a living from it. It recognizes that conservation is a shared responsibility; a partnership between farmers, ranchers, and the public. This bill strengthens those partnerships and ensures conservation will be a fundamental part of the mission of this Committee, Congress, and the Department of Agriculture.

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

S. 1326

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Working Lands Conservation Act''.

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

TITLE I—WORKING LANDS CONSERVATION PROGRAMS

SEC. 101. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) IN GENERAL.—Chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) is amended to read as follows:

''CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

''SEC. 1240. PURPOSES.

''The purposes of the environmental quality incentives program established by this chapter are to promote agricultural production and environmental quality as compatible national goals, and to maximize environmental benefits per dollar expended, by—

''(1) assisting producers in complying with this title, the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and other Federal, State, and local environmental laws (including regulations);

''(2) avoiding, to the maximum extent practicable, the need for resource and regulatory programs by assisting producers in protecting soil, water, air, and related natural resources and meeting environmental quality criteria established by Federal, State, and local agencies;

''(3) providing flexible technical and financial assistance to producers to install and maintain conservation systems that enhance soil, water, related natural resources (including grazing land and wetland), and wildlife while sustaining production of food and fiber;

''(4) assisting producers to make beneficial, cost effective changes to cropping systems, grazing management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural land;

''(5) facilitating partnerships and joint efforts among producers and governmental and nongovernmental organizations; and

''(6) consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals.

''SEC. 1240A. DEFINITIONS.

''In this chapter:

''(1) COMPREHENSIVE NUTRIENT MANAGEMENT.—

''(A) IN GENERAL.—The term 'comprehensive nutrient management' means any combination of structural practices, land management practices, and management activities associated with crop or livestock production described in subparagraph (B) that collectively ensure that the goals of crop or livestock production and preservation of natural resources, especially the preservation and enhancement of water quality, are compatible.

''(B) ELEMENTS.—For the purpose of subparagraph (A), structural practices, land management practices, and management activities associated with livestock production are—

''(i) manure and wastewater handling and storage;

''(ii) land treatment practices;

''(iii) nutrient management;

''(iv) recordkeeping;

''(v) feed management; and

''(vi) other waste utilization options.

''(C) PRACTICE.—

''(i) PLANNING.—The development of a comprehensive nutrient management plan shall be a practice that is eligible for incentive payments and technical assistance under this chapter.

''(ii) IMPLEMENTATION.—The implementation of a comprehensive nutrient plan shall

be accomplished through structural and land management practices identified in the plan.

''(2) ELIGIBLE LAND.—The term 'eligible land' means agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

''(3) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, air quality management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation.

''(4) LIVESTOCK.—The term 'livestock' means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and such other animals as determined by the Secretary.

''(5) MAXIMIZE ENVIRONMENTAL BENEFITS PER DOLLAR EXPENDED.—

''(A) IN GENERAL.—The term 'maximize environmental benefits per dollar expended' means to maximize environmental benefits to the extent the Secretary determines is practicable and appropriate, taking into account the amount of funding made available to carry out this chapter.

''(B) LIMITATION.—The term 'maximize environmental benefits per dollar expended' does not require the Secretary—

''(i) to provide the least cost practice or technical assistance; or

''(ii) to require the development of a plan under section 1240E as part of an application for payments or technical assistance.

''(6) PRACTICE.—The term 'practice' means 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices.

''(7) PRODUCER.—The term 'producer' means a person that is engaged in livestock or agricultural production, as determined by the Secretary.

''(8) STRUCTURAL PRACTICE.—The term 'structural practice' means—

''(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, constructed wetland, or other structural practice that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation; and

''(B) the capping of abandoned wells on eligible land.

''SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—During each of the 2003 through 2011 fiscal years, the Secretary shall provide technical assistance, cost-share payments, and incentive payments to producers, that enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

''(2) ELIGIBLE PRACTICES.—

''(A) STRUCTURAL PRACTICES.—A producer that implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

''(B) LAND MANAGEMENT PRACTICES.—A producer that performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

''(C) COMPREHENSIVE NUTRIENT MANAGEMENT PLANNING.—A producer that develops a comprehensive nutrient management plan shall be eligible for any combination of technical assistance, incentive payments, and education.

''(3) EDUCATION.—The Secretary may provide conservation education at national, State, and local levels consistent with the purposes of the environmental quality incentives program to—

''(A) any producer that is eligible for assistance under this chapter; or

''(B) any producer that is engaged in the production of an agricultural commodity.

''(b) APPLICATION AND TERM.—A contract between a producer and the Secretary under this chapter may—

''(1) apply to 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices;

''(2) have a term of not less than 3, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract; and

''(3) in the case of a structural practice or comprehensive nutrient management planning practice, have a term of less than 3 years if the Secretary determines that a lesser term is consistent with the purposes of the program under this chapter.

''(c) APPLICATION AND EVALUATION.—

''(1) IN GENERAL.—The Secretary shall establish an application and evaluation process for awarding technical assistance, cost-share payments, and incentive payments to a producer in exchange for the performance of 1 or more practices that maximizes environmental benefits per dollar expended.

''(2) COMPARABLE ENVIRONMENTAL VALUE.—

''(A) IN GENERAL.—The Secretary shall establish a process for selecting applications for technical assistance, cost-share payments, and incentive payments when there are numerous applications for assistance for practices that would provide substantially the same level of environmental benefits.

''(B) CRITERIA.—The process under subparagraph (A) shall be based on—

''(i) a reasonable estimate of the projected cost of the proposals described in the applications; and

''(ii) the priorities established under this subtitle and other factors that maximize environmental benefits per dollar expended.

''(3) CONSENT OF OWNER.—If the producer making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the consent of the owner of the land with respect to the offer.

''(4) BIDDING DOWN.—If the Secretary determines that the environmental values of 2 or more applications for technical assistance, cost-share payments, or incentive payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program established under this chapter.

''(d) COST-SHARE PAYMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of cost-share payments to a producer proposing to implement 1 or more practices shall be not more than 75 percent of the projected cost of the practice, as determined by the Secretary.

''(2) EXCEPTIONS.—

''(A) LIMITED RESOURCE AND BEGINNING FARMERS; NATURAL DISASTERS.—The Secretary may increase the maximum Federal share under paragraph (1) to not more than 90 percent if the producer is a limited resource farmer or a beginning farmer or to address a natural disaster, as determined by the Secretary.

''(B) COST-SHARE ASSISTANCE FROM OTHER SOURCES.—Any cost-share payments received by a producer from a State or private organization or person for the implementation of 1 or more practices shall be in addition to the Federal share of cost-share payments provided to the producer under paragraph (1).

''(3) OTHER PAYMENTS.—A producer shall not be eligible for cost-share payments for practices on eligible land under this chapter if the producer receives cost-share payments or other benefits for the same practice on the same land under chapter 1 and this chapter.

''(e) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more practices.

''(f) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year.

''(2) AMOUNT.—The allocated amount may vary according to—

''(A) the type of expertise required;

''(B) the quantity of time involved; and

''(C) other factors as determined appropriate by the Secretary.

''(3) LIMITATION.—Funding for technical assistance under this chapter shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

''(4) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

''(5) NON-FEDERAL ASSISTANCE.—

''(A) IN GENERAL.—The Secretary may request the services of, and enter into a cooperative agreement with, a State water quality agency, State fish and wildlife agency, State forestry agency, or any other governmental or nongovernmental organization or person considered appropriate to assist in providing the technical assistance necessary to develop and implement conservation plans under the program.

''(B) PRIVATE SOURCES.—

''(i) IN GENERAL.—The Secretary shall ensure that the processes of writing and developing proposals and plans for contracts under this chapter, and of assisting in the implementation of practices covered by the contracts, are open to private persons, including—

''(I) agricultural producers;

''(II) representatives from agricultural cooperatives;

''(III) agricultural input retail dealers;

''(IV) certified crop advisers;

''(V) persons providing technical consulting services; and

''(VI) other persons, as determined appropriate by the Secretary.

''(ii) OTHER CONSERVATION PROGRAMS.—The requirements of this subparagraph shall also apply to each other conservation program of the Department of Agriculture.

''(6) INCENTIVE PAYMENTS FOR TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—A producer that is eligible to receive technical assistance for a practice involving the development of a comprehensive nutrient management plan may obtain an incentive payment that can be used to obtain technical assistance associated with the development of any component of the comprehensive nutrient management plan.

''(B) PURPOSE.—The purpose of the payment shall be to provide a producer the option of obtaining technical assistance for developing any component of a comprehensive nutrient management plan from a private person earlier than the producer would otherwise receive the technical assistance from the Secretary.

''(C) PAYMENT.—The incentive payment shall be—

''(i) in addition to cost-share or incentive payments that a producer would otherwise receive for structural practices and land management practices;

''(ii) used only to procure technical assistance from a private person that is necessary to develop any component of a comprehensive nutrient management plan; and

''(iii) in an amount determined appropriate by the Secretary, taking into account—

''(I) the extent and complexity of the technical assistance provided;

''(II) the costs that the Secretary would have incurred in providing the technical assistance; and

''(III) the costs incurred by the private provider in providing the technical assistance.

''(D) ELIGIBLE PRACTICES.—The Secretary may determine, on a case by case basis, whether the development of a comprehensive nutrient management plan is eligible for an incentive payment under this paragraph.

''(E) CERTIFICATION BY SECRETARY.—

''(i) IN GENERAL.—Only private persons that have been certified by the Secretary under section 16 of the Soil Conservation and Domestic Allotment Act shall be eligible to provide technical assistance under this subsection.

''(ii) QUALITY ASSURANCE.—The Secretary shall ensure that certified private providers are capable of providing technical assistance regarding comprehensive nutrient management in a manner that meets the specifications and guidelines of the Secretary and that meets the needs of producers under the environmental quality incentives program.

''(F) ADVANCE PAYMENT.—On the determination of the Secretary that the proposed comprehensive nutrient management of a producer is eligible for an incentive payment, the producer may receive a partial advance of the incentive payment in order to procure the services of a certified private provider.

''(G) FINAL PAYMENT.—The final installment of the incentive payment shall be payable to a producer on presentation to the Secretary of documentation that is satisfactory to the Secretary and that demonstrates—

''(i) completion of the technical assistance; and

''(ii) the actual cost of the technical assistance.

''(g) PARTNERSHIPS AND COOPERATION.—

''(1) PURPOSES.—The Secretary may designate special projects, as recommended by the State Conservationist, with advice from the State technical committee, to enhance technical and financial assistance provided to several producers within a specific area to address environmental issues affected by agricultural production with respect to—

''(A) meeting the purposes and requirements of—

''(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or comparable State laws in impaired or threatened watersheds;

''(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or comparable State laws in watersheds providing water for drinking water supplies; or

''(iii) the Clean Air Act (42 U.S.C. 7401 et seq.) or comparable State laws; or

''(B) watersheds of special significance or other geographic areas of environmental sensitivity; or

''(C) enhancing the technical capacity of producers to facilitate community-based planning, implementation of special projects, and conservation education involving multiple producers within an area.

''(2) INCENTIVES.—To realize the objectives of the special projects under paragraph (1), the Secretary shall provide incentives to producers participating in the special projects to encourage partnerships and sharing of technical and financial resources among producers and among producers and governmental and nongovernmental organizations.

''(3) FUNDING.—

''(A) IN GENERAL.—The Secretary shall make available 5 percent of funds provided for each fiscal year under this chapter to carry out this subsection.

''(B) SPECIAL PROJECTS.—The purposes of the special projects under this subsection shall be to encourage—

''(i) producers to cooperate in the installation and maintenance of conservation systems that affect multiple agricultural operations;

''(ii) sharing of information and technical and financial resources; and

''(iii) cumulative environmental benefits across operations of producers.

''(4) FLEXIBILITY.—

''(A) IN GENERAL.—The Secretary may enter into agreements with States, local governmental and nongovernmental organizations, and persons to allow greater flexibility to adjust the application of eligibility criteria, approved practices, innovative conservation practices, and other elements of the programs described in subparagraph (B) to better reflect unique local circumstances and goals in a manner that is consistent with the purposes of this chapter.

''(B) APPLICABLE PROGRAMS.—Subparagraph (A) shall apply to—

''(i) the environmental quality incentives program established by this chapter;

''(ii) the program to establish conservation buffers announced on March 24, 1998 (63 Fed. Reg. 14109) or a successor program;

''(iii) the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965) or a successor program; and

''(iv) the wetlands reserve program established under subchapter C of chapter 1.

''(5) UNUSED FUNDING.—Any funds made available for a fiscal year under this subsection that are not obligated by June 1 of the fiscal year may be used to carry out other activities under this chapter during the fiscal year in which the funding becomes available.

''(h) MODIFICATION OR TERMINATION OF CONTRACTS.—

''(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

''(A) the producer agrees to the modification or termination; and

''(B) the Secretary determines that the modification or termination is in the public interest.

''(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

''SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

''In evaluating applications for technical assistance, cost-share payments, and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

''(1) maximize environmental benefits per dollar expended; and

''(2)(A) address national conservation priorities involving—

''(i) comprehensive nutrient management;

''(ii) water quality, particularly in impaired watersheds;

''(iii) soil erosion; or

''(iv) air quality;

''(B) are provided in conservation priority areas established under section 1230(c); or

''(C) are provided in special projects under section 1240B(g) with respect to which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes.

''SEC. 1240D. DUTIES OF PRODUCERS.

''To receive technical assistance, cost-share payments, or incentive payments under this chapter, a producer shall agree—

''(1) to implement an environmental quality incentives program plan that describes conservation and environmental goals to be achieved through 1 or more practices that are approved by the Secretary;

''(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of this chapter;

''(3) on the violation of a term or condition of the contract at any time the producer has control of the land, to refund any cost-share or incentive payment received with interest, and forfeit any future payments under this chapter, as determined by the Secretary;

''(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under this chapter, as determined by the Secretary;

''(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

''(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

''SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

''(a) IN GENERAL.—To be eligible to receive technical assistance, cost-share payments, or incentive payments under the environmental quality incentives program, an owner or producer of a livestock or agricultural operation must submit to the Secretary for approval a plan of operations that incorporates practices covered under this chapter, and is based on such principles, as the Secretary considers necessary to carry out the program, including a description of the practices to be implemented and the objectives to be met by the implementation of the plan.

''(b) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the environmental quality incentives program and comparable conservation programs.

''SEC. 1240F. DUTIES OF THE SECRETARY.

''To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of an environmental quality incentives program plan by—

''(1) providing technical assistance in developing and implementing the plan;

''(2) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more practices, as appropriate;

''(3) providing the producer with information, education, and training to aid in implementation of the plan; and

''(4) encouraging the producer to obtain technical assistance, cost-share payments, or

grants from other Federal, State, local, or private sources.

"SEC. 1240G. LIMITATION ON PAYMENTS.

''(a) IN GENERAL.—Subject to subsection (b), the total amount of cost-share and incentive payments paid to a producer under this chapter may not exceed—

''(1) $50,000 for any fiscal year; or

''(2) $150,000 for any multiyear contract.

''(b) ADJUSTMENTS.—The Secretary may modify the payment limitations for producers under subsection (a), on a case-by-case basis, if the Secretary determines that a different limitation—

''(1) is warranted in light of 1 or more practices for which the payment is made; and

''(2) maximizes environmental benefits per dollar expended and is consistent with the purposes of this chapter.

"SEC. 1240H. CONSERVATION INNOVATION GRANTS.

''(a) IN GENERAL.—From funds made available to carry out this chapter, the Secretary shall use $100,000,000 for each fiscal year to pay the Federal share of competitive grants that are intended to stimulate innovative approaches to leveraging Federal investment in environmental enhancement and protection, in conjunction with agricultural production, through the environmental quality incentives program.

''(b) USE.—The Secretary shall award grants under this section to governmental and nongovernmental organizations and persons, on a competitive basis, to carry out projects that—

''(1) involve producers that are eligible for payments or technical assistance under this chapter;

''(2) implement innovative projects, such as—

''(A) market-based pollution credit trading; and

''(B) provision of funds to promote adoption of best management practices; and

''(3) leverage funds made available to carry out this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production.

''(c) FEDERAL SHARE.—The Federal share of a grant made to carry out a project under this section shall not exceed 50 percent of the cost of the project.

''(d) UNUSED FUNDING.—Any funds made available for a fiscal year under this section that are not obligated by June 1 of the fiscal year may be used to carry out other activities under this chapter during the fiscal year in which the funding becomes available.''.

(b) FUNDING.—Section 1241(b) of the Food Security Act of 1985 (16 U.S.C. 3841(b)) is amended—

(1) in paragraph (1), by striking ''$130,000,000'' and all that follows through ''2002,'' and inserting ''$650,000,000 for fiscal year 2003, $1,000,000,000 for fiscal year 2004, and $1,500,000,000 for each of fiscal years 2005 through 2011,''; and

(2) by striking paragraph (2) and inserting the following:

''(2) OBLIGATION OF FUNDS.—If a contract under the environmental quality incentives program is terminated prior to the date set out for the expiration for the contract and funds obligated for the contract are remaining, the remaining funds may be used to carry out any other contract under the program during the same fiscal year in which the original contract was terminated.''.

(c) COOPERATION WITH OTHER GOVERNMENT AGENCIES.—Section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) is amended in the last sentence by inserting ''but excluding transfers and allotments for conservation technical assistance'' after ''activities''.

SEC. 102. CONSERVATION RESERVE PROGRAM.

(a) EXTENSION OF PROGRAM.—

(1) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(A) in subsections (a), (b)(3), and (d), by striking ''2002'' each place it appears and inserting ''2011''; and

(B) in subsection (h)(1), by striking ''the 2001 and 2002'' and inserting ''each of the 2001 through 2011''.

(2) DUTIES OF OWNERS AND OPERATORS.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking ''2002'' and inserting ''2011''.

(b) CONSERVATION BUFFERS AND CONSERVATION RESERVE ENHANCEMENT PROGRAM.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—

(1) by striking ''2002'' and inserting ''2011''; and

(2) by inserting before the period at the end the following: '', of which not less than 4,000,000 acres shall be enrolled—

''(1) to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109) or a successor program; and

''(2) through the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965) or a successor program.''.

(c) HARDWOOD TREES.—Section 1231(e)(2) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(2)) is amended—

(1) by striking ''In the'' and inserting the following:

''(A) IN GENERAL.—In the'';

(2) by striking ''The Secretary'' and inserting the following:

''(B) EXISTING HARDWOOD TREE CONTRACTS.—The Secretary''; and

(3) by adding at the end the following:

''(C) EXTENSION OF HARDWOOD TREE CONTRACTS.—

''(i) IN GENERAL.—In the case of land devoted to hardwood trees under a contract entered into under this subchapter before the date of enactment of this subparagraph, on the request of the owner or operator of the land, the Secretary shall extend the contract for a term of 15 years.

''(ii) RENTAL PAYMENTS.—The amount of a rental payment for a contract extended under clause (i) shall be 50 percent of the rental payment that was applicable to the contract before the contract was extended.''.

(d) HAYING AND GRAZING ON BUFFER STRIPS.—Section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)) is amended—

(1) by striking ''except that the Secretary—'' and inserting ''except that—'';

(2) in subparagraph (A)—

(A) by striking ''(A) may'' and inserting ''(A) the Secretary may''; and

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

(3) in subparagraph (B)—

(A) by striking ''(B) shall'' and inserting ''(B) the Secretary shall''; and

(B) by striking the period at the end and inserting a semicolon;

(4) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following:

''(D) for maintenance purposes, the Secretary shall permit harvesting or grazing or other commercial uses of forage, in a manner that is consistent with the purposes of this subchapter and a conservation plan approved by the Secretary, on acres enrolled—

''(i) to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109) or a successor program; and

''(ii) into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965) or a successor program.''.

(e) FUNDING.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended—

(1) by striking ''1996 through 2002'' and inserting ''2003 through 2011''; and

(2) in paragraph (1), by inserting '', including technical assistance'' before the semicolon at the end.

SEC. 103. WETLANDS RESERVE PROGRAM.

(a) MAXIMUM ENROLLMENT.—Section 1237(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) is amended by striking ''975,000 acres'' and inserting ''3,475,000 acres''.

(b) EXTENSION OF PROGRAM.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended by striking ''2002'' and inserting ''2011''.

(c) WETLANDS RESERVE ENHANCEMENT PROGRAM.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by adding at the end the following:

''(h) WETLANDS RESERVE ENHANCEMENT PROGRAM.—

''(1) IN GENERAL.—The Secretary may enter into cooperative agreements with State or local governments, and with private organizations, to develop, on land that is enrolled, or is eligible to be enrolled, in the wetland reserve established under this subchapter, wetland restoration activities in watershed areas.

''(2) PURPOSE.—The purpose of the agreements shall be to address critical environmental issues, including hypoxia, eutrophication, wildlife habitat, flooding, and groundwater recharge.

''(3) LIMITATION.—The total number of acres that may be covered by agreements entered into under this subsection shall not exceed 50,000 acres for each calendar year.''.

(d) MONITORING AND MAINTENANCE.—Section 1237C(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3837c(a)(2)) is amended by striking ''assistance'' and inserting ''assistance (including monitoring and maintenance)''.

(e) TECHNICAL ASSISTANCE.—Section 1241(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(2)) is amended by inserting '', including technical assistance'' before the semicolon at the end.

SEC. 104. FARMLAND PROTECTION PROGRAM.

Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) is amended to read as follows:

"SEC. 388. FARMLAND PROTECTION PROGRAM.

''(a) DEFINITION OF AGRICULTURAL LAND.—In this section, the term 'agricultural land' means land on a farm or ranch that is—

''(1) cropland;

''(2) rangeland or grassland;

''(3) pastureland; or

''(4) private forest land.

''(b) ESTABLISHMENT.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in agricultural land with prime, unique, or other productive soil that is subject to a pending offer for the purpose of protecting topsoil by limiting nonagricultural uses of the land from—

''(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

''(2) any organization that—

''(A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

''(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

''(C) is described in section 509(a)(2) of that Code; or

''(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

''(c) CONSERVATION PLAN.—Any agricultural land for which a conservation easement or other interest is purchased under this section shall be subject to the requirements of a conservation plan that ensures that continued agricultural use of the agricultural land—

''(1) will not degrade the environment; and

''(2) in the case of cropland, will require the conversion of the agricultural land to less intensive uses, at the option of the Secretary.

''(d) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available $65,000,000 for each of fiscal years 2003 through 2011 for providing technical assistance and purchasing conservation easements under this section.''.

SEC. 105. WILDLIFE HABITAT INCENTIVE PROGRAM.

Section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a(c)) is amended by striking ''a total of $50,000,000 shall be made available for fiscal years 1996 through 2002'' and inserting ''the Secretary shall make available $50,000,000 for each of fiscal year 2003 through 2011''.

TITLE II—MISCELLANEOUS REFORMS AND EXTENSIONS

SEC. 201. PRIVACY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended—

(1) by redesignating sections 1244 and 1245 (16 U.S.C. 3844, 3845) as sections 1245 and 1246, respectively; and

(2) by inserting after section 1243 (16 U.S.C. 3843) the following:

''SEC. 1244. PRIVACY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS.

''(a) INFORMATION RECEIVED FOR TECHNICAL AND FINANCIAL ASSISTANCE.—Except as provided in subsection (c) and notwithstanding any other provision of law, information provided to, or developed by, the Secretary (including a contractor of the Secretary) for the purpose of providing technical or financial assistance to an owner or operator with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency—

''(1) shall not be considered to be public information; and

''(2) shall not be released to any person or Federal, State, local, or tribal agency outside the Department of Agriculture.

''(b) INVENTORY, MONITORING, AND SITE SPECIFIC INFORMATION.—Except as provided in subsection (c) and notwithstanding any other provision of law, in order to maintain the personal privacy, confidentiality, and cooperation of owners and operators, and to maintain the integrity of sample sites, the specific geographic locations of the National Resources Inventory of the Department of Agriculture data gathering sites and the information generated by those sites—

''(1) shall not be considered to be public information; and

''(2) shall not be released to any person or Federal, State, local, or tribal agency outside the Department of Agriculture.

''(c) EXCEPTIONS.—

''(1) RELEASE AND DISCLOSURE FOR ENFORCEMENT.—The Secretary may release or disclose to the Attorney General information covered by subsection (a) or (b) to the extent necessary to enforce the natural resources conservation programs referred to in subsection (a).

''(2) DISCLOSURE TO COOPERATING PERSONS AND AGENCIES.—

''(A) IN GENERAL.—The Secretary may release or disclose information covered by subsection (a) or (b) to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in providing technical and financial assistance described in subsection (a) or collecting information from National Resources Inventory data gathering sites.

''(B) USE OF INFORMATION.—The person or Federal, State, local, or tribal agency that receives information described in subparagraph (A) may release the information only for the purpose of assisting the Secretary—

''(i) in providing the requested technical or financial assistance; or

''(ii) in collecting information from National Resources Inventory data gathering sites.

''(3) STATISTICAL AND AGGREGATE INFORMATION.—Information covered by subsection (b) may be disclosed to the public if the information has been transformed into a statistical or aggregate form that does not allow the identification of any individual owner, operator, or specific data gathering site.

''(4) CONSENT OF OWNER OR OPERATOR.—

''(A) IN GENERAL.—An owner or operator may consent to the disclosure of information described in subsection (a) or (b).

''(B) CONDITION OF OTHER PROGRAMS.—The participation of the owner or operator in, and the receipt of any benefit by the owner or operator under, this title or any other program administered by the Secretary may not be conditioned on the owner or operator providing consent under this paragraph.

''(d) VIOLATIONS; PENALTIES.—Section 1770(c) shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this section.''.

SEC. 202. REFORM AND CONSOLIDATION OF CONSERVATION PROGRAMS.

(a) IN GENERAL.—The Secretary of Agriculture shall develop a plan for—

(1) consolidating conservation programs administered by the Secretary that are targeted at agricultural land; and

(2) to the maximum extent practicable—

(A) designing forms that are applicable to all such conservation programs;

(B) reducing and consolidating paperwork requirements for such programs;

(C) developing universal classification systems for all information obtained on the forms that can be used by other agencies of the Department of Agriculture;

(D) ensuring that the information and classification systems developed under this paragraph can be shared with other agencies of the Department through computer technologies used by agencies; and

(E) developing 1 format for a conservation plan that can be applied to all conservation programs targeted at agricultural land.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the plan developed under subsection (a), including any recommendations for implementation of the plan.

(c) NATIONAL CONSERVATION PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan and estimated budget for implementing the appraisal of the soil, water, and related resources of the Nation contained in the National Conservation Program under section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004) as the primary vehicle for managing conservation on agricultural land in the United States.

SEC. 203. CERTIFICATION OF PRIVATE PROVIDERS OF TECHNICAL ASSISTANCE.

The Soil Conservation and Domestic Allotment Act is amended by inserting after section 15 (16 U.S.C. 590o) the following:

''SEC. 16. CERTIFICATION OF PRIVATE PROVIDERS OF TECHNICAL ASSISTANCE.

''(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish procedures for certifying private persons to provide technical assistance to agricultural producers and landowners participating in conservation programs administered by the Secretary.

''(b) STANDARDS.—The Secretary shall establish standards for the conduct of—

''(1) the certification process conducted by the Secretary; and

''(2) periodic recertification by the Secretary of private providers.

''(c) CERTIFICATION REQUIRED.—A private provider may not provide technical assistance under any conservation program administered by the Secretary without certification approved by the Secretary.

''(d) FEE.—In exchange for certification, a private provider shall pay a fee to the Secretary in an amount determined by the Secretary.

''(e) PROVIDER.—Except as provided in section 1240B(f)(6) of the Food Security Act of 1985 (7 U.S.C. 3839aa–(f)(6)), the Secretary shall determine under what individual cases and conservation programs technical assistance may be delivered by private providers or by the Secretary.

''(f) OTHER REQUIREMENTS.—The Secretary may establish other requirements as the Secretary determines are necessary to carry out this section.''.

SEC. 204. EXTENSION OF CONSERVATION AUTHORITIES.

(a) ECARP AUTHORITY.—Section 1230(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3830(a)(1)) is amended by striking ''2002'' and inserting ''2011''.

(b) CONSERVATION FARM OPTION.—Section 1240M(h)(6) of the Food Security Act of 1985 (16 U.S.C. 3839bb(h)(6)) is amended by striking ''fiscal year 2002'' and inserting ''each of fiscal years 2002 through 2011''.

(c) FLOOD RISK REDUCTION.—Section 385(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7334(a)) is amended by striking ''2002'' and inserting ''2011''.

(d) RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.—Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended in the first sentence by striking ''2002'' and inserting ''2011''.

(e) FORESTRY.—

(1) OFFICE OF INTERNATIONAL FORESTRY.—Section 2405(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6704(d)) is amended by striking ''2002'' and inserting ''2011''.

(2) FORESTRY INCENTIVES PROGRAM.—Section 4(j) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103(j)) is amended by striking ''2002'' and inserting ''2011''.

SEC. 205. TECHNICAL AMENDMENTS.

(a) DELINEATION OF WETLANDS; EXEMPTIONS TO PROGRAM INELIGIBILITY.—

(1) REFERENCES TO PRODUCER.—Section 322(e) of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law

104–127; 110 Stat. 991) is amended by inserting ''each place it appears'' before ''and inserting''.

(2) GOOD FAITH EXEMPTION.—Section 1222(h)(2) of the Food Security Act of 1985 (16 U.S.C. 3822(h)(2)) is amended by striking ''to actively'' and inserting ''to be actively''.

(3) DETERMINATIONS.—Section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)) is amended by striking ''National'' and inserting ''Natural''.

(b) WILDLIFE HABITAT INCENTIVE PROGRAM.—Section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a) is amended in the section heading by striking ''**incentives**'' and inserting ''**incentive**''.

SEC. 206. EFFECT OF AMENDMENTS.

(a) IN GENERAL.—Except as otherwise specifically provided in this Act and notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect the authority of the Secretary of Agriculture to carry out a conservation program for any of the 1996 through 2002 fiscal or calendar years under a provision of law in effect immediately before the date of enactment of this Act.

(b) LIABILITY.—A provision of this Act or an amendment made by this Act shall not affect the liability of any person under any provision of law as in effect immediately before the date of enactment of this Act.

By Mr. MCCAIN (for himself, Mr. LOTT, and Mr. BURNS):

S. 1327. A bill to amend title 49, United States Code to provide emergency Secretarial authority to resolve airline labor disputes; to the Committee on Health, Education, Labor, and Pensions.

Madam President, I rise today to introduce the Airline Labor Dispute Resolution Act. This bill would give the Secretary of Transportation the authority to send airline labor disputes to binding arbitration in order to prevent labor actions that might cripple the national air transportation system. The intent of this bill is to fix a collective bargaining process that is not serving the unions, the airlines, or the traveling public. Senators LOTT and BURNS are joining me as original cosponsors of this legislation.

The Commerce Committee held a hearing in April on the status of labor issues in the airline industry. The hearing made it clear to most everyone that the current process for resolving airline labor disputes is not working. While labor negotiations in the airline industry have been ongoing for years, things have begun to worsen. The trend towards larger airlines has given unions greater leverage, which appears to have contributed to a mind set that views any work stoppage as legitimate. Normally, even acrimonious labor negotiations are a part of the negotiating process with both sides using what leverage is available to them to reach the best deal. However, times have changed, and these acrimonious negotiations now adversely affect the American people.

As I have said before, I have no problems with the labor organizations exercising their legal rights. At the moment, strikes are a permitted action under applicable labor statutes, provided that specific steps have been taken to resolve the dispute. Increasingly, however, courts have found that airline labor unions have illegally resorted to self-help measures. In the past, United, American, Northwest and Delta have obtained court ordered relief from these alleged illegal job actions. In American's case, the court fined American's pilots over $45 million for not adhering to an injunction.

These actions have affected millions of consumers. Middle America has too often been stranded as a result of this illegal union activity. According to published reports, United canceled over 23,000 flights last year as a result of its pilots' refusal to fly overtime, destroying carefully planned vacations and business trips. Northwest and Delta cancelled thousands of flights preemptively over the holiday seasons to combat alleged slowdowns by mechanics and failures to fly overtime by pilots, respectively. The pilots' sickout at American in 1999 left thousands of people stranded, some of whom have banded together to sue the pilots for damages.

The unions are not the only ones to blame for the current situation—airline management must also shoulder some of the responsibility. Airlines have skillfully used the existing process to draw out negotiations and leave employees bound for years to the terms of old agreements. As one witness at our hearing testified, airlines use the current procedures to prolong negotiations and avoid accountability at the bargaining table. Employees can become quite frustrated and have reportedly lost faith in the existing system. That is no excuse for illegal job actions, but it is another indication that the current process is broken. These matters should be resolved more quickly and with more certainty.

Those who seek to maintain the status quo will undoubtedly say that the current collective bargaining process is not perfect but works well enough. They will point out that several significant agreements were reached in the industry this year without any disruption to commercial air transportation. It is true that several unions and major airlines were able to avoid strikes this year. But that does not mean the process cannot or should not be improved. Air transportation has become an integral part of our economy and society, and each year our dependence upon it grows. If we do not act now to address the flaws in the system, we will pay a very high price in the future when the very threat of a disruption in air service may be devastating.

Because airlines are so important to the well being of the country, the traveling public can be held hostage by both sides in these disputes. With few large air carriers, a job action at a major airline can have a catastrophic effect on the aviation system and the consumer. The rest of the airlines would have a difficult time absorbing the excess passengers in the event of a strike, and the system could come to a standstill. While management and labor are affected by this, both parties have contingencies planned in the event of work stoppages. The consumer is the one most affected by a job action.

The dispute resolution process in this bill is modeled on the process used by Major League Baseball to resolve contract disputes between individual players and teams. If binding arbitration is ordered by the Secretary, each side must make its last, best offer. A panel of five arbitrators would be chosen: three neutral persons and one each selected by the two sides. That panel would then choose one proposal or the other—it could not, for example, split the difference between the two proposals. This would naturally force each side to be as reasonable as possible, otherwise it would risk having to live by terms proposed by the other side. This system has worked well for baseball and can be adapted for the airline industry.

This bill would give much greater certainty to the public, the unions, and the airlines that contract disputes will get resolved without disruption to the nation. I urge my colleagues to join me in supporting this effort to improve the system for resolving labor-management disputes in the airline industry.

By Ms. LANDRIEU:

S. 1328. A bill entitled the ''Conservation and Reinvestment Act''; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Madam President, today I rise to introduce perhaps the most significant conservation effort ever considered by the Congress.

The Conservation and Reinvestment Act, CARA, is bipartisan landmark legislation that makes a multi-year commitment to conservation programs benefitting all 50 States. It reinvests revenues earned from the depletion of a nonrenewable asset, oil and gas reserves on the Outer Continent Shelf, for the protection and enhancement of our natural and cultural heritage, threatened coastal areas and wildlife. It also reinvests in our local communities and our children through enhanced outdoor recreational opportunities. By enacting CARA, we can ensure that this century begins with the most significant commitment of resources to conservation ever.

During the 106th Congress the House of Representatives passed almost identical legislation by an overwhelming vote of 315 to 102 and the Senate Committee on Energy and Natural Resources reported a version with the support of the Chairman and Ranking Member. In addition, a bipartisan group of 63 Senators sent a letter to Majority Leader LOTT and Minority Leader DASCHLE on September 19, 2000 requesting that CARA be brought to the floor of the Senate for consideration before the adjournment of the 106th Congress. Just last week the

House Committee on Resources reported the bill by a vote of 29 to 12 and it currently has two-hundred and thirty nine co-sponsors. CARA is supported by Governors, Mayors and a coalition of over 5,000 organizations from throughout the country.

This legislation provides $3.125 billion for eight distinct reinvestment programs including: Impact Assistance and Coastal Conservation for all coastal states and eligible local governments and to mitigate the various impacts of producing states that serve as the ''platform'' for the crucial development of federal offshore energy resources from the Outer Continental Shelf, restoring Congressional intent with respect to the Land and Water Conservation Fund, LWCF, by providing stable and annual funding for the state and federal side of the LWCF at its authorized $900 million level while protecting the rights of private property rights owners; establishing a Wildlife Conservation and Restoration Fund at $350 million through the successful program of Pittman-Robertson by reinvesting the development of non-renewable resources into a renewable resource of wildlife conservation and education; providing funding for the Urban Parks and Recreation Recovery program through matching grants to local governments to rehabilitate and develop recreation programs, sites and facilities enabling cities and towns to focus on the needs of its populations within our more densely inhabited areas with fewer greenspaces, playgrounds and soccer fields for our youth; providing funding for the Historic Preservation Fund through the programs of the Historic Preservation Act, including grants to the States, maintaining the National Register of Historic Places and administering numerous historic preservation programs and fully funding the Payment In-Lieu of Taxes (PILT) program.

The time has come to take the proceeds from a non-renewable resource for the purpose of reinvesting a portion of these revenues in the conservation and enhancement of our renewable resources. To continue to do otherwise, as we have over the last fifty years, is fiscally irresponsible.

By Mr. JEFFORDS (for himself, Mr. BINGAMAN, Mr. HATCH, Mr. GRASSLEY, Mr. DASCHLE, Mr. DURBIN, Mr. CHAFEE, and Mr. BOND):

S. 1329. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes; to the Committee on Finance.

Mr. JEFFORDS. Madam President, together with Senators BINGAMAN, HATCH, GRASSLEY, DASCHLE, DURBIN, BOND, and CHAFEE, I am today introducing the Conservation Tax Incentives Act of 2001. As an incentive for voluntary conservation of environmentally significant land, this bill allows landowners to exclude from income fifty percent of the gain they realize on sales, for conservation purposes, of land or easements in land. This proposal, included in President Bush's Budget Blueprint, was a central element in his environmental platform during the campaign. It is a sensible, modest tax proposal to help the environment and is supported by a wide range of groups, including the American Farm Bureau, the Association of State Foresters, Defenders of Wildlife, and the Nature Conservancy.

Landowners have a stake in the quality of life of their communities' environment. They also have a right to reap the economic benefits of their investments in land. Landowners able to make charitable contributions of land for conservation purposes can realize tax benefits that make it possible to achieve both their financial and conservation goals. For many taxpayers, however, in Vermont and elsewhere throughout the country, holdings in land represent a major financial asset they cannot afford to donate. Others may not have sufficient income to be able to take full advantage of the tax benefit of a charitable donation. For these landowners, a sale of the land for development may be the only viable way to realize the full economic return on their investment in land. We need new federal tax incentives to help these ''land-rich, cash-poor'' landowners protect their investments and at the same time achieve permanent conservation interests. This bill provides a market-based, voluntary land conservation incentive to help those who own and want to conserve environmentally sensitive land but cannot afford to give it away.

The need for this bill has never been more pressing. We are consuming land at an alarming pace. The pace of land development exceeds by far both the rate of population growth and the rate of open space conservation. In the United States, two acres of farmland per minute, about a million acres per year, are lost to development. Almost one-third of the species in the United States are extinct or under threat of extinction. Loss of open space not only threatens biodiversity, but also quality of life. It increases traffic congestion, and air and water pollution; it decreases opportunities for recreation; and it threatens productive agricultural land. Healthy communities are made up to complex systems of forests, productive soils, rivers, and other interdependent resources. Deforestation, the paving over of agricultural land, the filling-in of wetlands, and urban sprawl are consuming the landscape and straining the balance of wild and human habitat. The sustainability of a healthy quality of life is increasingly in jeopardy.

My bill's approach to these problems creates no new regulatory authority; it requires no appropriations; and it has no new attempts to define conservation. It creates a simple, voluntary incentive for private, market-rate sales of land, or interests in land, to government agencies or qualified non-profit organizations. Incorporating definitions and concepts that already exist in the tax code, this bill provides substantial conservation benefits at a minimal cost—about $66 million per year, as estimated by the Joint Committee on Taxation. Projections show that every year the bill could protect land valued at up to $150 million.

In drafting the bill, we were careful to ensure that land acquired with this new tax incentive would truly serve conservation purposes. The only qualified purchasers are publicly supported conservation charitable organizations and governmental natural resource and environmental agencies; these entities have long and respected records of serving the public interest in acquiring and managing land for conservation purposes. The bill builds on that record of trust and responsible stewardship without imposing new and cumbersome requirements to ensure that the public interest is served.

In addition, the bill requires a statement by the conservation purchasers memorializing their intent to serve the specified conservation purposes. This language was crafted to protect the public's conservation investment and does not create a tax-driven land use restriction. In essence, we want to make sure that the intention to conserve land does not rob the land of the commercial value for which the landowner must be compensated. The required statement of the purchaser's intent should not be construed to impose restrictions on the property or covenants running with the land, which might result in an appraisal that could deny sellers the full value of their land. Property should be appraised at its unencumbered, full fair market value. Furthermore, the value of property in the hands of the purchasing conservation entity should be its full fair market value, regardless of the purchaser's intent of conservation and regardless of the required statement of intent. This principle is important, because it means that a land trust could serve as the original conservation purchaser and subsequently transfer the property to another cooperating conservation purchaser, such as a governmental agency, receiving the full fair market value on the subsequent transfer.

This bill has broad bipartisan support. In the 106th Congress, a majority of the Members of the Senate Finance Committee supported it as an element of the Community Renewal and New Markets Act. It is a modest, bipartisan, innovative proposal that should be a part of this year's environment and tax agenda, and I urge my colleagues to join me in support.

Mr. BINGAMAN. Madam President, I rise today to join my colleagues, Senators JEFFORDS and HATCH, as an original co-sponsor of the Conservation Tax Incentives Act of 2001. The great conservationist Aldo Leopold once stated. ''That land is a community is the basic

concept of ecology, but that land is to be loved and respected is an extension of ethics'' This legislation is in keeping with the conservation ethic so eloquently articulated by Mr. Leopold decades ago.

The bill that we are introducing today will greatly expand the benefits of our existing conservation land easement laws which will have an enormous impact on the preservation of our nation's forests, prairies, deserts and open space. This legislation will save millions of acres of our nation's land for future generations by reducing by 50 percent the tax on capital gains that would normally be owned on a sale provided the land or easements are sold to public or private conservation entities for conservation purposes. These types of sales of conservation and preservation organizations will enhance opportunities for recreation, maintain open space, help to retain lands in agricultural production, and preserve important habitat.

Whether it is riparian habitat in New Mexico, mixed grass prairie in the Midwest, open space in California and the foothills of the Rocky Mountains, or woodlands of the Southeast, this legislation would provide enhanced conservation through the voluntary actions of citizens. It would help to address the dramatic loss of farmland acreage to development. It would ensure that important habitat for wildlife is conserved. It would eliminate tax disincentive that keeps landowners who wish to see their land preserved from reaching their goal.

This bill will have positive impacts in New Mexico. The legislation will help landowners who wish to ensure that their lands remain in ranching in future decades or who want to preserve other open lands for future generations. The bill would provide a boost to the efforts of state and local government to stretch limited conservation dollars. And it will enhance the ability of local land conservation organizations to craft voluntary agreements with landowners to conserve lands.

I believe enactment of this legislation would have significant consequences for our nation's landscape for generations to come. I look forward to working with my colleagues to secure its passage.

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

S. 1330. A bill to amend the Internal Revenue Code of 1986 to provide that amounts paid for foods for special dietary use, dietary supplements, or medical foods shall be treated as medical expenses; to the Committee on Finance.

Mr. HARKIN. Madam President, today I am introducing legislation, the Dietary Supplement Tax Fairness Act, on behalf of myself and my distinguished colleague Senator HATCH. This legislation will make the cost of dietary supplements, medical foods, and foods for special dietary when offered as a health insurance plan tax deductible for employers and excluded from taxable income for employees. Unfortunately, today the tax code provides this sensible tax treatment for these products only if they are prescribed drugs.

Our current policy is unfair and is failing to take full advantage of the potential to improve health and hold down health care costs through preventive health care practices available to consumers. Many Americans are using these healthcare products to improve their health and to stay healthy and would like to be able to have access to these products in the form of an insurance benefit. Insurance companies and employers responding to this consumer demand have been frustrated by being unable to offer a benefit like this in a manner consistent with other health care practices which receive favorable consideration in the Internal Revenue Code. The White House Commission on Complementary and Alternative Health Care Policy has consistently heard in testimony of the need for greater insurance coverage of products like the ones in my legislation. Bringing the code up to date to recognize and allow for this important need for wellness and health promotion is an important step forward to overall sound healthcare policy.

I want to emphasize the importance our legislation places on quality. Consumers need and deserve to know that the products they are buying are of a high quality and consistency. With that in mind, the Dietary Supplement Health and Education Act of 1994 called on the Food and Drug Administration, FDA, to develop and implement Good Manufacturing Practice Standards, GMPs, for dietary supplements. Senator HATCH and I have repeatedly pushed the FDA to produce and implement these important consumer protections. After seven years, draft GMPs were published in the Federal Register but have not been finalized. I am hopeful that these final standards will be put in place without further delay. The legislation we are introducing requires that dietary supplement and other products meet good manufacturing practice standards in order to receive the improved tax treatment. This will offer a strong incentive to maintain and improve quality.

I urge my colleagues to review this legislation and I hope they will join us in support and join us in our effort to win its passage. 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. 1330

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 shall be known as the ''Dietary Supplement Tax Fairness Act of 2001.''

SECTION 2. FINDINGS.

The Congress finds that—

(1) the inclusion of foods for special dietary use, dietary supplements, and medical foods in the deduction for medical expenses does not subject such items to regulation as drugs,

(2) the Internal Revenue Code of 1986 treats such items as allowable for the medical expense deduction, but only if such items are prescribed drugs,

(3) such items have been shown through research and historical use to be a valuable benefit to human health, in particular disease prevention and overall good health, and

(4) children with inborn errors of metabolism, metabolic disorders, and autism, and all individuals with diabetes, autoimmune disorders, and chronic inflammatory conditions, frequently require daily dietary interventions as well as medical interventions to manage their conditions and such dietary interventions often become a significant economic burden on such individuals.

SEC. 3. AMOUNTS PAID FOR FOODS FOR SPECIAL DIETARY USE, DIETARY SUPPLEMENTS, OR MEDICAL FOODS TREATED AS MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (1) of section 213(d) of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) for foods for special dietary use, dietary supplements (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act), and medical foods,''.

(b) SPECIAL RULE FOR INSURANCE COVERING FOODS FOR SPECIAL DIETARY USE, DIETARY SUPPLEMENTS, AND MEDICAL FOODS.—Subsection (d) of section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end the following new paragraph:

''(12) SPECIAL RULE FOR INSURANCE COVERING FOODS FOR SPECIAL DIETARY USE, DIETARY SUPPLEMENTS, AND MEDICAL FOODS.—Amounts paid for insurance covering foods and supplements referred to in paragraph (1)(C) shall be treated as described in paragraph (1)(E) only if such foods and supplements comply with applicable good manufacturing practices prescribed by the Food and Drug Administration or with other comparable standards.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 213(d)(1) of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraphs (A), (B), and (C)''.

(2) The last sentence of section 213(d)(1) of such Code is amended by striking ''subparagraph (D)'' and inserting ''subparagraph (E)''.

(3) Paragraph (6) of section 213(d) of such Code is amended—

(A) by striking ''and (C)'' and inserting ''(C), and (D)'', and

(B) by striking ''paragraph (1)(D)'' in subparagraph (A) and inserting ''paragraph (1)(E)''.

(4) Paragraph (7) of section 213(d) of such Code is amended by striking ''and (C)'' and inserting ''(C), and (D)''.

(5) Sections 72(t)(2)(D)(i)(III) and 7702B(a)(4) of such Code are each amended by striking ''section 213(d)(1)(D)'' and inserting ''section 213(d)(1)(E)''.

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

By Mr. TORRICELLI:

S. 1332. A bill to amend the Internal Revenue Code of 1986 to exclude certain

severance payment amounts from income; to the Committee on Finance.

Mr. TORRICELLI. Madam President, I rise to introduce a bill that is intended to provide tax relief for people who have lost their jobs due to the current economic slowdown and the fact that many corporations are now forced to downsize their workforces. The number of layoffs this calendar year is approaching an all-time high. There were over 770,000 job cuts during the first six (6) months of the year. U.S. employers cut 124,852 jobs during the month of June. The June figure increased 56 percent from May, 80,140, and marked the sixth time in seven months that job cuts exceeded 100,000. Last month the number was actually 624 percent, over June, 2000 when job cuts totaled just 17,241 which was a three (3) year record low.

I am introducing a bill which will provide tax relief to these displaced workers. This legislation will exclude the first $5,000 of severance pay received by people who may be adjusting to an extended period of unemployment in an economy that is no longer bustling. This exclusion is available for any displaced worker whose overall severance payment does not exceed $125,000.

Under present tax law, severance payments are included in gross income. However, severance pay is not intended to be included as part of a worker's wage. Rather, it is intended to be a supplement to assist them during unemployment. Displaced workers often lose nearly a third of their severance packages to taxes. The lump sums they receive in severance pay drives them up into a higher tax bracket that is not representative of their true income or standard of living.

Corporations are already allowed to write-off the severance packages they provide to laid off employees, yet the workers are often adversely effected. For good reasons this body has devoted much time and attention this session to determining how to return to American tax payers that which is rightfully theirs. Clearly, these displaced workers deserve what is truly fair tax treatment at a time when they could truly benefit from it.

The economic prosperity of the last decade benefitted most Americans. Unfortunately, many of the industries most adversely effected by the current economic cycle contributed greatly to our unprecedented growth. Therefore, it is inexcusable for our government to disregard the needs of these displaced workers. It is important that our government take steps to help these workers by removing the unfair tax burden that is placed upon them.

By Mr. JEFFORDS (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. SCHUMER, Mr. KERRY):

S. 1333. A bill to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Madam President, I rise today to introduce a bill to establish renewable energy targets for electricity sales, an electric systems benefit fund, and net metering programs to ensure a clean, sustainable energy future. I am pleased to be joined by Mr. LIEBERMAN, Ms. SNOWE, Mr. SCHUMER, and Mr. KERRY in introducing the ''Renewable Energy and Energy Efficiency Investment Act of 2001''.

This bill will help bring renewable energy sources and energy efficiency technologies from the minds of the American entrepreneur to the fields of the American farmer, to the hills where strong winds blow, and to the roofs of our homes. Investing in and utilizing these technologies offers tremendous benefits for the health of our citizens, environment and economy. It is time for our Nation to transition from smokestacks, coal power and smog to a future with windmills, solar power and blue skies.

Our Nation has vast, untapped resources than can power our homes and businesses using the heat of the earth, the brilliance of the sun and the strength of the wind. Unlike the limited fossil fuel resources, these sources of energy are forever replacing themselves. All we have to do is harness them.

Today, renewables are beginning to take hold. Wind power, for example, is the fastest growing form of energy in the world. Worldwide almost 4,000 megawatts of new wind energy capacity were added in the year 2000. Other forms of renewable energy, such as solar, biomass and geothermal, offer the same potential and the same benefits. These technologies provide high-tech jobs for U.S. workers. They help reduce acid rain and other forms of air pollution, including greenhouse gas emissions. They are not subject to supply changes that lead to large fluctuations in the price of fossil fuels and they help us reduce our dependence on foreign sources of fossil fuels.

There is perhaps no better time to push these technologies forward. Our Nation is focused on energy issues make it was in the last decade. We are at crossroads where we can begin to see the end of the path toward a clean, sustainable energy future. Renewable energy is the most important landmark on that path. Let me describe how this bill will make this happen.

First, our bill will put in place a Nation-wide wires charge to create an electric system benefit fund. This will help develop renewable energy sources, promote energy efficiency and assist low-income residents meet their energy needs.

Second, our legislation will make it cheaper and easier for consumers to install renewable energy sources in their homes, farms, and small business by simplifying the metering process.

Third, our bill has a comprehensive disclosure provision, giving consumers honest and verifiable information regarding their energy choices.

Finally, our bill will require the suppliers of electricity to include a minimum amount of renewable energy in the products that they sell. We start with 2.5 percent in the first year and work up to 20 percent by the year 2020. The Union of Concerned Scientists found that this program is achievable and will lead to tremendous reductions in air, water and other pollutants that turn our blue skies to grey. Energy Information Administration also found that this program would lead to an 18 percent decrease in the amount of carbon dioxide we release compared to the status quo and ease supply pressures on and prices of natural gas. All these benefits come at the same time that we establish our nation as a leader in developing and manufacturing the cutting edge technologies that will not only power our economy, but the economies of countries all over the world.

Our nation's future depends on having clean, reliable, and sustainable sources of energy. With this bill we can ensure that future becomes a reality. At the same time, we can capture the global market for renewable energy and we can increase our energy security. Most importantly, we can know that our children and grandchildren will thank us for giving them a clean, sustainable energy supply.

I ask that the bill be printed in the RECORD.

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

S. 1333

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 ''Renewable Energy and Energy Efficiency Investment Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the generation of electricity is unique in its combined influence on the security, environmental quality, and economic efficiency of the United States;

(2) the generation and sale of electricity has a direct and profound impact on interstate commerce;

(3) the Federal Government and the States have a joint responsibility for the maintenance of public purpose programs affected by the national electric system;

(4) notwithstanding the public's interest in and enthusiasm for programs that enhance the environment, encourage the efficient use of resources, and provide for affordable and universal service, the investments in those public purposes by existing means continues to decline;

(5) the dependence of the United States on foreign sources of fossil fuels is contrary to our national security;

(6) alternative, sustainable energy sources must be pursued;

(7) consumers have a right to certain information in order to make objective choices on their electric service providers; and

(8) net metering of small systems for self-generation of electricity is in the public interest in order to encourage private investment in renewable energy resources, stimulate economic growth, and enhance the continued diversification of the energy resources used in the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BIOMASS.—The term ''biomass'' means—

(A) organic material from a plant that is planted exclusively for the purpose of being used to produce electricity; and

(B) nonhazardous, cellulosic or agricultural animal waste material that is segregated from other waste materials and is derived from—

(i) a forest-related resource, including—

(I) mill and harvesting residue;

(II) precommercial thinnings;

(III) slash; and

(IV) brush;

(ii) an agricultural resource, including—

(I) orchard tree crops;

(II) vineyards;

(III) grain;

(IV) legumes;

(V) sugar; and

(VI) other crop by-products or residues;

(iii) miscellaneous waste such as—

(I) waste pallet;

(II) crate;

(III) dunnage; and

(IV) landscape or right-of-way tree trimmings, but not including—

(aa) municipal solid waste;

(bb) recyclable postconsumer wastepaper;

(cc) painted, treated, or pressurized wood;

(dd) wood contaminated with plastic or metals; or

(ee) tires; and

(iv) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to biological fertilizer, oil, or activated carbon.

(3) BOARD.—The term ''Board'' means the National Electric System Benefits Board established under section 4.

(4) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(5) FUND.—The term ''Fund'' means the National Electric System Benefits Fund established by section 5.

(6) LANDFILL GAS.—The term ''landfill gas'' means gas generated from the decomposition of household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)).

(7) POLLUTANT.—The term ''pollutant'' means—

(A) carbon dioxide, mercury nitrous oxide, sulfur dioxide, or any other substance that the Administrator identifies by regulation as a substance that, when emitted into the air from a combustion device used in the generation of electricity, endangers public health or welfare (within the meaning of section 302(h) of the Clean Air Act (42 U.S.C. 7602(h));

(B) any substance discharged into water that is regulated under a National Pollutant Discharge Elimination System permit issued under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342); and

(C) any substance disposed of in a solid or hazardous waste facility that is regulated under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(8) RENEWABLE ENERGY.—The term ''renewable energy'' means electricity generated from—

(A) a renewable energy source; or

(B) hydrogen that is produced from a renewable energy source.

(9) RENEWABLE ENERGY SOURCE.—The term ''renewable energy source'' means—

(A) wind;

(B) biomass;

(C) landfill gas; or

(D) a geothermal, solar thermal, or photovoltaic source.

(10) RETAIL ELECTRIC SUPPLIER.—

(A) IN GENERAL.—The term ''retail electric supplier'' means a person or entity that sells retail electricity to consumers.

(B) INCLUSIONS.—The term ''retail electric supplier'' includes—

(i) a regulated utility company (including affiliates or associates of such a company);

(ii) a company that is not affiliated or associated with a regulated utility company;

(iii) a municipal utility;

(iv) a cooperative utility;

(v) a local government; and

(vi) a special district.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 4. NATIONAL ELECTRIC SYSTEM BENEFITS BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish a National Electric System Benefits Board to carry out the functions and responsibilities described in this section.

(b) MEMBERSHIP.—The Board shall be composed of—

(1) 1 representative of the Commission appointed by the Commission;

(2) 2 representatives of the Secretary appointed by the Secretary;

(3) 2 persons nominated by the national organization representing State regulatory commissioners and appointed by the Secretary;

(4) 1 person nominated by the national organization representing State utility consumer advocates and appointed by the Secretary;

(5) 1 person nominated by the national organization representing State energy offices and appointed by the Secretary;

(6) 1 person nominated by the national organization representing energy assistance directors and appointed by the Secretary; and

(7) 1 representative of the Environmental Protection Agency appointed by the Administrator.

(c) CHAIRPERSON.—The Secretary shall select a member of the Board to serve as Chairperson of the Board.

(d) MANAGER.—

(1) APPOINTMENT.—The Board shall by contract appoint an electric systems benefits manager for a term of not more than 3 years, which term may be renewed by the Board.

(2) COMPENSATION.—The compensation and other terms and conditions of employment of the manager shall be determined by a contract between the Board and the individual or the other entity appointed as manager.

(3) FUNCTIONS.—The manager shall—

(A) monitor the amounts in the Fund;

(B) receive, review, and make recommendations to the Board regarding applications from States under section 6(b); and

(C) perform such other functions as the Board may require to assist the Board in carrying out its duties under this Act.

SEC. 5. NATIONAL ELECTRIC SYSTEM BENEFITS FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Board shall establish an account or accounts at 1 or more financial institutions, which account or accounts shall be known as the ''National Electric System Benefits Fund'', consisting of amounts deposited in the fund under subsection (c).

(2) STATUS OF FUND.—The wires charges collected under subsection (c) and deposited in the Fund—

(A) shall constitute electric system revenues and shall not constitute funds of the United States;

(B) shall be held in trust by the manager of the Fund solely for the purposes stated in subsection (b); and

(C) shall not be available to meet any obligations of the United States.

(b) USE OF FUND.—

(1) FUNDING OF SYSTEM BENEFIT PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States for the support of State system benefit programs relating to—

(A) renewable energy sources;

(B) assisting low-income households in meeting home energy needs;

(C) energy conservation and efficiency; or

(D) research and development in areas described in subparagraphs (A) through (C).

(2) DISTRIBUTION.—

(A) IN GENERAL.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall instruct the manager of the Fund to distribute all amounts in the Fund to States to fund system benefit programs under paragraph (1).

(B) FUND SHARE.—

(i) IN GENERAL.—Subject to clause (iii), the Fund share of a system benefit program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States exceeds the maximum projected revenues of the Fund, the matching funds distributed to the States shall be reduced by an amount that is proportionate to each State's annual consumption of electricity compared to the aggregate annual consumption of electricity in the United States.

(iii) ADDITIONAL STATE FUNDING.—A State may apply funds to system benefit programs in addition to the amount of funds applied for the purpose of matching the Fund share.

(3) PROGRAM CRITERIA.—The Board shall recommend eligibility criteria for system benefits programs funded under this section for approval by the Secretary.

(4) APPLICATION.—Not later than August 1 of each year, a State seeking matching funds for the following year shall file with the Board, in such form as the Board may require, an application—

(A) certifying that the funds will be used for an eligible system benefit program;

(B) stating the amount of State funds earmarked for the program; and

(C) summarizing the manner in which amounts from the Fund were used in the State during the previous calendar year.

(c) WIRES CHARGE.—

(1) DETERMINATION OF NEEDED FUNDING.—Not later than September 1 of each year, the Board shall determine and inform the Commission of the aggregate amount of wires charges that it will be required to be paid into the Fund to pay matching funds to States and the operating costs of the Board in the following year.

(2) IMPOSITION OF WIRES CHARGE.—

(A) IN GENERAL.—Not later than December 15 of each year, the Commission shall impose a nonbypassable, competitively neutral wires charge to be paid directly into the Fund by the operator of the wire on the amount of electricity carried through the wire in interstate commerce.

(B) MEASUREMENT.—For the purposes of subparagraph (A)—

(i) electricity generated in the United States shall be measured as the electricity exits the busbar at a generation facility; and

(ii) electricity generated outside the United States shall be measured at the point of delivery to the system of the wire operator.

(C) AMOUNT OF WIRES CHARGE.—The wires charge shall be set at a rate equal to the lesser of—

(i) 2 mills per kilowatt-hour; or

(ii) a rate that is estimated to result in the collection of an amount of wires charges that is as nearly as possible equal to the amount of needed funding determined under paragraph (1).

(3) DEPOSIT IN THE FUND.—The wires charge shall be paid by the operator of the wire directly into the Fund at the end of each month during the calendar year for distribution by the electric systems benefits manager under section 5.

(4) STATE WIRES CHARGE.—

(A) IN GENERAL.—A State that imposes a wires charge may pay into the Fund some or all of the wires charge imposed under this subsection on behalf of wire operators serving that State.

(B) PAYMENT.—Payments by the State into the Fund under subparagraph (A) shall be applied towards the wires charge imposed under this subsection.

(5) PENALTIES.—The Commission may assess against a wire operator that fails to pay a wires charge as required by this subsection a civil penalty in an amount equal to not more than the amount of the unpaid wires charge.

(d) AUDITING.—

(1) IN GENERAL.—The Fund shall be audited annually by a firm of independent certified public accountants in accordance with generally accepted auditing standards.

(2) ACCESS TO RECORDS.—Representatives of the Secretary and the Commission shall have access to all books, accounts, reports, files, and other records pertaining to the Fund as necessary to facilitate and verify the audit.

(3) REPORTS.—

(A) IN GENERAL.—A report on each audit shall be submitted to the Secretary, the Commission, and the Secretary of the Treasury, who shall submit the report to the President and Congress not later than 180 days after the close of the fiscal year.

(B) REQUIREMENTS.—An audit report shall—

(i) set forth the scope of the audit; and

(ii) include—

(I) a statement of assets and liabilities, capital, and surplus or deficit;

(II) a statement of surplus or deficit analysis;

(III) a statement of income and expenses;

(IV) any other information that may be considered necessary to keep the President and Congress informed of the operations and financial condition of the Fund; and

(V) any recommendations with respect to the Fund that the Secretary or the Commission may have.

SEC. 6. RENEWABLE ENERGY GENERATION STANDARDS.

(a) RENEWABLE ENERGY CREDITS.—

(1) IN GENERAL.—Not later than April 1 of each year, each retail electric supplier shall submit to the Secretary renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier's total amount of kilowatt-hours of electricity sold to consumers during the previous calendar year.

(2) RATE.—The rates charged to each class of consumers by a retail electric supplier shall reflect an equal percentage of the cost of generating or acquiring the required annual percentage of renewable energy under subsection (b).

(3) ELIGIBLE RESOURCES.—A retail electric supplier shall not represent to any customer or prospective customer that any product contains more than the percentage of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (b).

(4) STATE RENEWABLE ENERGY PROGRAM.—

(A) IN GENERAL.—Nothing in this section precludes any State from requiring additional renewable energy generation in the State under any renewable energy program conducted by the State.

(B) LIMITATION.—A State may limit the benefits of any State renewable energy program to renewable energy generators located within the boundaries of the State or other boundaries (as determined by the State).

(b) REQUIRED RENEWABLE ENERGY.—Of the total amount of electricity sold by each retail electric supplier during a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified in the following table:

Calendar year:	Percentage reduction:
2002	2.5
2003	3
2004	4
2005	5
2006	6
2007	7
2008	8
2009	9
2010	10
2011	11
2012	12
2013	13
2014	14
2015	15
2016	16
2017	17
2018	18
2019	19
2020 and thereafter	20.

(c) SUBMISSION OF RENEWABLE ENERGY CREDITS.—To meet the requirements under subsection (a)(1), a retail electric supplier may submit to the Secretary—

(1) renewable energy credits issued under subsection (d) for renewable energy generated by the retail electric supplier during the calendar year for which renewable energy credits are being submitted or any previous calendar year; or

(2) renewable energy credits—

(A) issued under subsection (d) to any renewable energy generator for renewable energy generated during the calendar year for which renewable energy credits are being submitted or a previous calendar year; and

(B) acquired by the retail electric supplier under subsection (e).

(d) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program to issue, monitor the sale or exchange of, and track renewable energy credits.

(2) APPLICATION.—

(A) IN GENERAL.—Under the program established under paragraph (1), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

(B) REQUIREMENTS.—An application under subparagraph (A) shall identify—

(i) the type of renewable energy resource used to produce the electric energy;

(ii) the State in which the electric energy was produced; and

(iii) any other information that the Secretary determines appropriate.

(3) NUMBER OF RENEWABLE ENERGY RESOURCE CREDITS.—

(A) IN GENERAL.—The Secretary shall issue to an entity 1 renewable energy credit for each kilowatt-hour of electric energy that the entity generates through the use of a renewable energy resource in any State in calendar year 2001 and each year thereafter.

(B) PARTIAL CREDIT.—If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits based on the proportion of the renewable energy resource used.

(4) ELIGIBILITY.—To be eligible for a renewable energy credit under this subsection, the unit of electricity generated through the use of a renewable energy resource shall be sold or used by the generator.

(5) IDENTIFICATION OF RENEWABLE ENERGY CREDITS.—The Secretary shall identify renewable energy credits by—

(A) the type of generation; and

(B) the State in which the generating facility is located.

(6) FEE.—

(A) IN GENERAL.—To receive a renewable energy credit, the entity shall pay a fee, calculated by the Secretary, in an amount that is equal to the lesser of—

(i) the administrative costs of issuing, recording, monitoring the sale of exchange of, and tracking the renewable energy credit; or

(ii) 5 percent of the national average market value (as determined by the Secretary) of that quantity of renewable energy credits.

(B) USE.—The Secretary shall use the fee to pay the administrative costs described in subparagraph (A)(i).

(e) SALE OR EXCHANGE.—A renewable energy credit may be sold or exchanged by the entity issued the renewable energy credit or by any other entity that acquires the renewable energy credit.

(f) VERIFICATION.—The Secretary may collect the information necessary to verify and audit—

(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section;

(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary; and

(3) the amount of electricity sales of all retail electric suppliers.

(g) ENFORCEMENT.—

(1) IN GENERAL.—The Secretary may bring an action in United States district court to impose a civil penalty on a retail electric supplier that fails to comply with subsection (a).

(2) AMOUNT OF PENALTY.—A retail electric supplier that fails to submit the required number of renewable energy credits under subsection (a) shall be subject to a civil penalty of not more than 3 times the estimated national average market value (as determined by the Secretary) of that quantity of renewable energy credits for the calendar year concerned.

SEC. 7. NET METERING.

(a) DEFINITIONS.—In this section:

(1) CUSTOMER-GENERATOR.—The term ''customer-generator'' means a retail electric customer that generates electricity measured by a net metering system.

(2) ELECTRIC COMPANY.—

(A) IN GENERAL.—The term ''electric company'' means a company that is engaged in the business of distributing electricity to retail electric customers.

(B) INCLUSIONS.—The term ''electric company'' includes an investor-owned utility, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility.

(3) NET METERING.—The term ''net metering'' means the measuring of the difference between—

(A) the quantity of electricity supplied by an electric company to a customer-generator during a billing period; and

(B) the quantity of electricity generated by a customer-generator and fed back to the electric company by a net metering system during the billing period.

(4) NET METERING SYSTEM.—The term ''net metering system'' means a facility for generation of electricity that—

(A) is of not more than 100 kilowatts capacity;

(B) is interconnected and operates in parallel with the transmission and distribution system of an electric company;

(C) is intended primarily to offset some or all of the electricity requirements of a customer-generator;

(D) is located on the premises of a customer-generator; and

(E) employs a renewable energy source.

(b) REQUIREMENT TO ALLOW NET METERING.—An electric company shall allow a retail electric customer to interconnect and employ a net metering system using—

(1) a kilowatt-hour meter capable of registering the flow of electricity in 2 directions; or

(2) another type of comparably equipped meter that would otherwise be applicable to the customer's usage but for the use of net metering.

(c) NET METERING ACCOUNTING.—

(1) IN GENERAL.—Electric energy measurements for a net metering system shall be calculated in accordance with this subsection.

(2) RATES AND CHARGES.—An electric company—

(A) shall charge a customer-generator rates and charges that are identical to those that would be charged other retail electric customers of the electric company in the same rate class; and

(B) shall not charge a customer-generator any additional standby, capacity, interconnection, or other rate or charge.

(3) MEASUREMENT.—An electric company that supplies electricity to a customer-generator shall measure the quantity of electricity produced by the customer-generator and the quantity of electricity consumed by the customer-generator during a billing period in accordance with normal metering practices.

(4) ELECTRICITY SUPPLIED EXCEEDING ELECTRICITY GENERATED.—If the quantity of electricity supplied by an electric company during a billing period exceeds the quantity of electricity generated by the customer-generator and fed back to the electric distribution system during the billing period, the electric company may bill the customer-generator for the net quantity of electricity supplied by the electric company, in accordance with normal metering practices.

(5) ELECTRICITY GENERATED EXCEEDING ELECTRICITY SUPPLIED.—If the quantity of electricity generated by a customer-generator during a billing period exceeds the quantity of electricity supplied by the electric company during the billing period—

(A) the electric company may bill the customer-generator for the appropriate charges for the billing period in accordance with paragraph (1); and

(B) the customer-generator shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

(6) UNUSED CREDITS.—At the beginning of each calendar year, any unused kilowatt-hour credits accumulated by a customer-generator during the previous calendar year shall expire without compensation to the customer-generator.

(d) SAFETY.—

(1) REQUIREMENTS.—

(A) INTERIM PROVISION.—A net metering system using photovoltaic generation shall conform to applicable electrical safety, power quality, and interconnection requirements established by the National Electrical Code, the Institute of Electrical and Electronic Engineers, and Underwriters Laboratories.

(B) REGULATION.—Not later than 180 days after the date of enactment of this Act, the Commission shall adopt electrical safety, power quality, and interconnection requirements for net metering systems that use generation technology other than photovoltaic technology.

(2) TESTING AND INSPECTION.—An electric company may, at its own expense, and upon reasonable written notice to a customer-generator, perform such testing and inspection of a net metering system as is necessary to demonstrate to the satisfaction of the electric company that the system conforms to applicable electric safety, power quality, and interconnection requirements.

(3) ADDITIONAL METERS.—An electric company may, at its own expense and with the written consent of a customer-generator, install 1 or more additional meters to monitor the flow of electricity in each direction.

SEC. 9. DISCLOSURE REQUIREMENTS.

(a) DEFINITIONS.—In this section:

(1) EMISSIONS DATA.—The term ''emissions data'' means the type and amount of each pollutant emitted or released by a generation facility in generating electricity.

(2) GENERATION DATA.—The term ''generation data'' means the type of fuel (such as coal, oil, nuclear energy, or solar power) used by a generation facility to generate electricity.

(b) DISCLOSURE SYSTEM.—The Secretary shall establish a system of disclosure that—

(1) enables retail consumers to knowledgeably compare retail electric service offerings, including comparisons based on generation source portfolios, emissions data, and price terms; and

(2) considers such factors as—

(A) cost of implementation;

(B) confidentiality of information; and

(C) flexibility.

(c) REGULATION.—Not later than March 1, 2002, the Secretary, in consultation with the Board, and with the assistance of a Federal interagency task force that includes representatives of the Commission, the Federal Trade Commission, the Food and Drug Administration, and the Environmental Protection Agency, shall promulgate a regulation prescribing—

(1) the form, content, and frequency of disclosure of emissions data and generation data of electricity by generation facilities to electricity wholesalers or retail companies and by wholesalers to retail companies;

(2) the form, content, and frequency of disclosure of emissions data, generation data, and the price of electricity by retail companies to ultimate consumers; and

(3) the form, content, and frequency of disclosure of emissions data, generation data, and the price of electricity by generation facilities selling directly to ultimate consumers.

(d) ACCESS TO RECORDS.—The Secretary shall have full access to the records of all generation facilities, electricity wholesalers, and retail companies to obtain any information necessary to administer and enforce this section.

(e) FAILURE TO DISCLOSE.—The failure of a retail company to accurately disclose information as required by this section shall be treated as a deceptive act in commerce under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(f) REGULATIONS.—The Secretary may promulgate such regulations, conduct such investigations, and take such other actions as are necessary or appropriate to implement and obtain compliance with this section and regulations promulgated under this section.

Mr. LIEBERMAN. Madam President, today Senator JEFFORDS, Senator SNOWE, and I are introducing the Renewable Energy Act of 2001. This is a landmark bill as it sets a national goal of fueling 20 percent of our electricity generation with renewable energy sources by the year 2020. For our long-term energy policy, setting such a goal is important. In addition to supporting traditional hydrocarbon fuel sources, we must also invest in those sources, like solar, wind, geothermal, and biomass, that will not eventually run dry. Such investments will also significantly lessen our vulnerability to our foreign energy suppliers. Furthermore, nations such as Japan and Denmark have already made great strides in advancing renewable technologies and it is in our economic interest to be able to compete on the international market. While some of the details of the bill need ongoing evaluation and tuning, we should view this bill as stating a goal, not as the detailed road map on how to get there. For example, the definition of renewables needs further attention and expansion. But I believe the Renewable Energy Act sets laudable goals to aspire to and makes a useful statement about our national priorities as we approach the energy debate.

By Mr. WARNER.

S. 1334. A bill to require increases in the strengths of the full-time support personnel for the Army National Guard of the United States through fiscal year 2001 to support the readiness and training of the Army National Guard of the United States to meet increasing mission requirements, and for other purposes; to the Committee on Armed Services.

Mr. WARNER. Madam President, I rise today to introduce legislation to fulfill an urgent need of the Army National Guard.

I recently visited the Headquarters of the Virginia National Guard and the Maneuver Training Center at Fort Pickett. I conferred with Major General Claude A. Williams, the Adjutant General, of the Virginia National Guard. Major General Williams heads a superb organization composed of outstanding units, including the 29th Infantry Division, Light, the 91st Troop Command, the 28th Engineer Brigade, the 54th Field Artillery Brigade, and the 192nd Fighter Wing. The Maneuver Training Center at Fort Picket and its personnel perform a vital training mission for units of the active Army, Army Guard, and Reserve.

I was astonished to learn during my visit last month that the Army has funded only 59 percent of the validated operational billets for Active Guard and Reserve, ''AGRs'', and military technicians within the Army National Guard units. The ''full rate'' in Virginia is even lower than this national

average, only 51 percent. I raised a question about this and expressed my concern to the Secretary of the Army and Chief of Staff of the Army at a recent Senate Armed Services Committee hearing.

The legislation I am introducing today requires annual increases in the numbers of full time active-duty officers and military technicians in the Army National Guard—724 AGRs and 487 military technicians each year for the next 11 years. The legislation is based on a plan drawn up, cooperatively, by the Active Army and the Army National Guard. When fully implemented, the increases contained in the legislation will raise the Guard's ''fill rate'' from its present level of 59 percent of valid personnel requirements, to a level of 71 percent—an acceptable level within current force structure and readiness planning parameters.

AGRs and Military Technicians are critically important force multipliers for Army National Guard units. They directly impact training, command and control, technical, functional, and military expertise required to effectively train, administer, and prepare ready units and equipment for transition from peacetime to a wartime posture. AGRs and Military Technicians perform functions vital for meeting supply, training, and maintenance requirements of the Army National Guard units.

The increases in authorized end strengths set forth in this legislation are essential because of the increased reliance on Guard units to carry out Army missions. Each Army National Guard division has been assigned rotational duty in Bosnia-Herzegovina with the Stabilization Force, SFOR, missions in Bosnia-Herzegovina. The 29th Infantry Division, Light, of the Virginia National Guard is now fully engaged in executing its phased deployment to Bosnia and will be in place in October of this year. I applaud the Army for its ongoing efforts to integrate the National Guard in its operational planning. The Guard needs these soldiers in place in their full time support roles to ensure its success.

I know that Army leaders must make difficult decisions each year based on changing priorities and requirements and that the President must do the same in his annual budget submission. I am convinced, however, that the increases in end strength prescribed in this legislation are necessary and must be assigned the highest priority.

By Mr. KENNEDY (for himself, Mr. DEWINE, Mr. DASCHLE, Ms. SNOWE, Mr. DURBIN, Mr. CORZINE, Ms. STABENOW, Mr. BAUCUS, Mr. BINGAMAN, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. JOHNSON, and Mr. CONRAD):

S. 1335. A bill to support business incubation in academic settings; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Madam President, it is a privilege to join my colleagues in introducing the LEADERS Act—the Linking Educators And Developing Entrepreneurs for Reaching Success Act. Our bipartisan goal is to bring together entrepreneurs and academic institutions to encourage small businesses. These innovative centers can have a significant role in the modern economy, and provide needed cutting-edge educational and entrepreneurial opportunities for college students.

I commend Senator DEWINE for his leadership in developing this bipartisan legislation, and for his continuing leadership on economic and education issues. We agree that college-affiliated business incubators can be effective tools in improving education and the economy, and this legislation is designed to encourage them.

A business incubator facilitates economic development by providing specific resources and services to entrepreneurial, start-up companies. This assistance often includes office space at discounted rent, access to telephone and Internet services, consulting opportunities, and other appropriate technical assistance. The goal of such business incubators is to produce successful firms that will be successful in the long run through modest and timely start-up assistance.

Business incubators can have an important role in strengthening and sustaining local economies. Several studies have shown that incubated businesses tend to survive longer, create more jobs, remain in their communities, and provide worthwhile benefits to their employees.

One of the best ways to encourage entrepreneurship is to enhance the role of colleges and universities in developing new ideas into sustainable businesses that prosper, remain in their communities, and provide good jobs and good benefits to local workers in the cities and towns that need them most. Business incubators will benefit colleges and universities as well, because they can provide students with real-life examples of emerging businesses and case studies to enhance their educational experience.

Our legislation creates a program in the Department of Education to support academic-affiliated business incubators. A $20 million fund will offer competitive grants to acquire or renovate space, develop curricula and training for incubator businesses or managers, and conduct feasibility studies for developing and locating incubators.

Eligible applicants will include nonprofit organizations that have an affiliation with a college or university and that manage an incubator. Priority is given to incubators in economically distressed areas, to applications which provide strong educational opportunities in entrepreneurship, and to applications that emphasize cooperation by businesses, academic institutions, local economic leaders, and local government officials.

Small business entrepreneurs have an outstanding track record of products that improve and often save lives. Today these entrepreneurs take advantage of innovative ideas and turn them into job and economic growth. Entrepreneurs can benefit immensely from contacts with academic institutions, and Congress should encourage those contacts.

Colleges and universities often have well-equipped laboratories, good computer systems, and extensive libraries. They can be a source of ideas that spur business creation. Colleges and universities can also provide the skills and experience of a dedicated faculty, and the enthusiasm and potential of today's students.

Current studies show that nearly seven out of ten teenagers want to control their own destinies by becoming entrepreneurs. Six in ten young women, seven in ten Hispanic youth, and nearly eight in ten African-American youth are interested in starting a business of their own. But too many of these young men and women say they know little about how to start their own business. A large majority are taught little about how business or the economy works.

Students who benefit from such instruction start more new business, develop more new products, and are more likely to be involved in high-technology initiatives than their peers. Most entrepreneurs say that they ''learned by doing''—through hands-on access to mentors and similar opportunities. Our legislation will provide access to real-world examples of entrepreneurship and business development, and help lay a stronger foundation for growing and thriving firms.

More and more, academic institutions across the country recognize this opportunity by establishing successful business incubators. In Massachusetts, Salem State College and the University of Massachusetts at Lowell have created successful incubators on their campuses.

Other incubators are reaching out to colleges and universities. The Commonwealth Corporation, a leader in workforce training in Massachusetts, has established an incubator and is actively pursuing ties in Boston with The University of Massachusetts.

Increasingly today, business leaders are recognizing the advantages of affiliations with institutions of higher learning, and academic leaders are welcoming the idea of including entrepreneurial projects in their curricula. In many cases, faculty members themselves are launching incubators.

It makes sense for Congress to support these constructive partnerships. The LEADERS Act can make a worthwhile contribution to this growing movement, and I look forward to early action by the Senate to approve it.

Mr. DEWINE. Madam President, I rise today, along with my good friend, Senator KENNEDY, to introduce the ''Linking Educators And Developing Entrepreneurs for Reaching Success

Act of 2001'' (LEADERS Act). This bipartisan measure will help foster business development by strengthening academic affiliated business incubators.

Our Nation's ability to expand economically hinges on new business growth. Small businesses provide 75 percent of the new jobs in this country, and in 1999, the number of new employer firms outnumbered the amount of business closures. Though our American entrepreneurial spirit is alive and well, as most businessmen and women can attest, starting and maintaining a business is very difficult. In the first two years, more than half of all new businesses fail and, after four years, the failure rate climbs to more than 60 percent.

That's why business incubation is so important. These incubators are centers designed to accelerate the successful development of new companies. They offer an array of business support resources. Most of the incubators provide their clients with access to appropriate rental space and flexible leases, shared services and equipment, technology support services, and assistance in obtaining financing for growth. They also provide a range of services like management guidance, technical assistance, and consulting. Such support an incubation increases the chance of small business survival to about 86 percent.

Our LEADERS Act authorizes the Secretary of Education to provide competitive grants to nonprofit organizations that manage incubators and are affiliated with academic institutions. These grants can be used to acquire or renovate space for an incubator or to support curriculums developed by businesses, faculty, entrepreneurs, and local leaders. The Secretary also can award a grant to help fund feasibility studies to help colleges or local development officials determine the viability of an incubator in their respective communities.

The Act would authorize $20 million for grants in each of the next three fiscal years. The nonprofit organizations that receive funding under the bill would be required to match federal contributions dollar for dollar, and their proposals must have the support of local community leaders.

Many of the non-profit incubators include universities, which are an integral part of the business incubation process. Academic affiliated incubators provide unique educational opportunities for students and entrepreneurs. This is accomplished with enhanced access to a skilled workforce and a wealth of resources. Ohio is the home of one of the oldest university-based business incubators, the Ohio University Innovation Center, which was established in 1982. Since it's inception, the Center has created 625 jobs, including 125 for students. A number of other important institutions in Ohio, such as The Ohio State University, Bowling Green State University, Case Western Reserve University, Franklin University, John Carroll University, University of Cincinnati, and University of Dayton operate business incubators.

The goal of the incubator is simple: to produce successful, financially viable firms. And, studies show that business incubation works. Almost 87 percent of incubated companies remain in operation, with roughly 84 percent of them remaining in their home communities. It is vital that we give small businesses the necessary tools to stay afloat and to prosper. This legislation will help to foster the next generation of successful entrepreneurs and ultimately further bolster the stability of our economy.

I urge my colleagues to support this legislation and our efforts to help America's entrepreneurs.

By Ms. CANTWELL:

S. 1337. A bill to provide for national digital school districts; to the Committee on Health, Education, Labor, and Pensions.

Ms. CANTWELL. Madam President, I rise today to introduce the National Digital School District Act, a bill that embraces the powerful role technology can have as a tool in educating our nation's children.

Just as technology has brought innovation and efficiency to our daily lives and our businesses, technology has already demonstrated its enormous potential to enhance the ways that we can prepare our children to meet the educational demands of the changing economy.

Across the country, we have seen how proper uses of technology can transform a conventional curriculum into a multi-media, interactive experience that not only helps children learn more effectively, but does so in a way that is enjoyable and fosters a student's passion for learning.

In numerous recent studies, including those done by the Department of Education, the White House Office on Science and Technology and the RAND Corporation, researchers have found that technology has a very positive impact on serving the goals of education in important ways, including:

1. Supporting student performance—technology provides opportunities for acquiring problem-solving skills and methods for learning in innovative and interactive ways.

2. Increased motivation and self-esteem—studies have found that one of the most common effects of technology on students was an increase in the motivation of students who experience education in new and enjoyable ways.

3. Preparing students for the future—as both higher education and the workplace are increasingly becoming infused with technology, technology is a crucial component of student preparation, and;

The potential impact of technology on education is no secret. In fact, schools have dramatically increased their focus on putting technology in the classroom. Both the public and private sector have been diligently wiring school buildings and putting computers in many classrooms, making access to computers and the Internet increasingly commonplace.

But as the old saying goes, you can lead a horse to water, but you can't make it drink. The same is true for children, just putting technology into a school does not ensure that teachers know how to use it or children are able to learn from it.

Unless technology is properly integrated into curriculum, the students will not realize the benefits of having the access. Without teachers who know how to use computers to teach the kids, the kids will not benefit.

In addition to computers and access, we need to assure teacher training and curriculum development. This legislation is a good first step toward fixing this problem, in effect, bridging the technology and teaching divide.

To accomplish this goal, our bill takes two tracks, first, the legislation establishes a grant program in which the state and federal government share the responsibility to create model programs to team technology with curriculum and teacher training—to develop comprehensive approaches to using technology in education.

Second, to help identify best practices, the legislation will also require a study to evaluate and highlight which of these strategies work and which do not work in bringing technology to the classroom.

Schools across the country are being given the tool of technology. Indeed, the total annual investment in education technology is currently almost $5 billion per year.

According to a recently released study by NetDay, although 97 percent of teachers have some type of access to computers in their schools, only 32 percent of teachers say that computers are well integrated into their classrooms and curricula.

We can do better.

Teachers around the country are finding ways to enhance the classroom experience by teaching conventional topics with technological tools. Schools and businesses in my home State of Washington are leaders in these areas.

For example, in rural, agricultural Eastern Washington, Diane Peterson wanted to improve her Waterville Elementary 4th and 5th graders' success with math, science, reading, and writing. She found that University of Washington scientists needed data gathered on local vegetation and weather—she put those facts together and came up with a plan. Students were able to use 3-mail and shared websites to write, organize and present a useful study to the Western Washington scientists. The students are learning math and science skills through real-world experience, possible only through the use of the Internet. And helping science to boot.

Also, administrators in districts around the countries are increasingly

finding particular methods and strategies that are crucial to realizing the value of technology. The Seattle Public School District, for example, has undertaken an effort to employ at every school a person who, with expertise in both education and technology, trains and advises teachers in how to use technology to teach different subjects. Teachers now have a resource to guide them as they bring technology into the classroom. The district has found that having a person who can educate teachers and help them make the most of the technology available to them can make the difference between technology as an educational tool or as a waste of money.

The Bill and Melinda Gates foundations have been leaders in improving education through the use of technology. For example, in Washington State, the Foundation had created the $45 million ''Teacher Leadership Project,'' a grant program to provide leadership development for 1,000 K–12 teachers a year, over three years. Participants receive in-depth training, as well as hardware and software to create a technology-rich learning environment. Teachers attend workshops and seminars, participate in e-mail discussions, keep records of the experiences, and assist with assessment and evaluation. Clearly, assessment and evaluation are critical to the future application for this program. This program is an excellent model to bring technology into the classroom.

These programs show that when used effectively, technology can enhance learning.

But to fully employ technology as an educational tool across the country we must develop programs that take into account the real needs for education and that can be scaled for implementation by any school or district.

Successful strategies are those that not only install computers, but also integrate these resources in three crucial ways, through:

1. Teacher Training and professional development—We must teach the teachers so they can use technology to teach the children.

2. Curriculum development—Technology isn't helpful unless it is incorporated into lesson plans.

3. Resource allocation—In order to be successful, a program should match the technology needs to the goals of the program.

The National Digital School District Act addresses these important elements of technology in education by requiring that local and state agencies incorporate these criteria into their education plans.

Through these requirements, the National Digital School District Act will encourage the development of best practices for the use of technology in schools; practices that can be scaled up in states and local districts around the country.

Additionally, this legislation will ensure that the Department of Education leads the way in identifying best practices for the use of technology by assessing and evaluating the effectiveness of these strategies.

Teachers, administrators, private sector organizations, and non-profit groups are developing innovative approaches in countless classrooms, schools and districts.

Too often, however, the programs and strategies are springing up in isolation—without any mechanisms to facilitate the evaluation and sharing of the results of these efforts.

My bill will bridge this information gap. Not only will this legislation help provide assistance to schools, districts and states as they begin using technology in the classroom, but this will help ensure that federal monies are spent prudently and effectively.

The National Digital School District Act directs the Secretary of Education to complete a comprehensive report after three years to describe what works and what doesn't work—providing guidance to educators and policymakers at the federal, state and local levels. This report will describe the strategies being implemented around the country that best achieve their intended goals.

Using this report we will be able to identify which programs work well and could be adapted successfully for use in other school districts. The report need not be exhaustive, but it must be comprehensive—if a program works, we should know about it. We need a clear inventory of successful programs to identify the best practices educators can implement.

The National Digital School District Act will succeed in identifying these practices and helping to bridge the gap between the vast potential for technology as an educational tool, and the challenges facing teachers who uses it in the classroom.

By Mr. CAMPBELL:

S. 1338. A bill to expand and enhance the Little Bighorn Battlefield National Monument; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Madam President, the ultimate test of patriotism has always been the willingness to die for one's country. To step in harm's way, to face shots fired in anger for the sake of defending those things one holds sacred, these are acts of courage that people admire almost instinctively. So much so that we even admire the courage displayed by our enemies.

Those of us who witness such bravery, either up close or from accounts written years ago, often feel compelled to make some gesture that acknowledges the heroism and sacrifice of those who were willing to endure the horror of war.

For this reason, our Nation has a long tradition of setting aside and preserving the sites where important battles have occurred, believing that such ground is hallowed by those who gave their lives in conflict, and in the hope that understanding the events of our past helps us to understand the kind of people we are. A necessary part of this honoring is attempting to preserve the appearance of the places where these battles occurred as the combatants would have experienced them and to freeze these locations in time as much as possible.

Today, I am proud to offer a bill that will continue to protect the sanctity of one such place: the Little Bighorn Battlefield National Monument in southern Montana, the site where Gen. George Armstrong Custer and the U.S. Seventh Cavalry were defeated by a united force of Northern Cheyenne, Arapaho and Lakota Indians, in 1876.

Anyone who has stood, looking down past the grave markers to the trees along the Little Bighorn River, can tell you that it is a haunting place to visit. As you walk along Battle Ridge where soldiers of the U.S. Seventh Cavalry and Indian warriors struggled furiously, it is easy to imagine exactly how it looked on that hot June day when so many men died.

But anyone who has stood on that same hill recently can also tell you that beyond the trees are the telltale signs of commercial development creeping up on the borders of the Monument. For years the site was protected by its sheer isolation. That is no longer the case. The actual battle occurred across a wide area, and only a very small part of that area is protected by inclusion in the Monument. Other historically important sites nearby have already been overrun by development. Hills have been graded and geographical features have been altered. Action must be taken quickly if we are to preserve the Monument looking as it did over a century ago.

The bill I am introducing proposes a way for additional lands to be protected by the Monument. This bill does this by establishing a Committee composed of all interested parties, both those with current interests and those with historical interests in this piece of land, which will keep a registry of important sites that might be taken into the Monument. It is my belief that through a consultative process and cooperation, all interests can be accommodated. I have used this inclusionary process before with the research and protection of the Sand Creek National Historic Site in Colorado.

In the 102nd Congress, while serving as a member of the House, I introduced the bill that changed the name of this monument from the Custer Battlefield National Monument to the Little Bighorn National Monument, to recognize that there were heroes on both sides of this conflict: not only Custer, but also Sitting Bull and Crazy Horse and thousands of other warriors.

I wanted to reclaim the memory of that day for Indian people, and to make clear that the tragedy of June 26, 1876, was just one small part of a much larger tragedy: the near destruction of a people and the ending of a way of life.

The Indian victory at the Little Bighorn that day was only a brief pause in the march of history, it was the beginning of the end. One week later the Untied States marked its first centennial, only one hundred years of existence.

This country needs places like the Little Bighorn Battlefield, just as we need places like Bunker Hill and Gettsburg and Omaha Beach, locations made special by the extraordinary events that occurred there. We need to keep them separate and sacred and dedicated to the belief that some things are worthy of laying down your life. They are, in the fullest sense of the word, monuments: reminders of what is important.

The Little Bighorn Battlefield National Monument is such a place. I ask this Congress to join me in ensuring that this Monument remain a special place for generations to come.

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. 1338

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 ''Little Bighorn Battlefield National Monument Enhancement Act of 2001''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The following events were key in the creation of the Little Bighorn Battlefield National Monument:

(A) On June 25 and 26, 1876, a historic battle between the United States Seventh Cavalry, led by General George Armstrong Custer, and an opposing force of Arapaho, Northern Cheyenne, and Lakota Indians, was fought near the Little Bighorn River in southern Montana.

(B) On August 1, 1879, the battlefield was officially recognized and designated as a national cemetery under General Order No. 78, Headquarters of the Army.

(C) On December 7, 1886, Executive Order No. 337443 established the boundary, approximately one mile square, for the National Cemetery of Custer's Battlefield Reservation.

(D) On April 14, 1926, the Reno-Benteen Battlefield was acquired by an Act of Congress (44 Stat. 168), and the Army was ordered to take charge of the site.

(E) On April 15, 1930, by an Act of Congress (46 Stat. 168), all rights, titles and privileges of the Crow tribe, from whose reservation the battlefield site was carved, were granted to the United States.

(F) On August 10, 1939, a public historical museum was authorized (53 Stat. 1337).

(G) On June 3, 1940, Executive Order No. 8428 transferred management of the area to the National Park Service, Department of the Interior.

(H) On March 22, 1946, by an Act of Congress (Public Law 79–332) the area was redesignated, Custer Battlefield National Monument.

(I) On January 3, 1991, by an Act of Congress (Public Law 102–201), Custer Battlefield National Monument was redesignated as Little Bighorn Battlefield National Monument (referred to in this Act as the ''Monument''), and an Indian memorial was authorized.

(2) The current total size of the Monument is 765.34 acres. This includes the areas immediately surrounding the cemetery and a separate area, the Reno-Benteen Battlefield, a few miles from the cemetery. There are additional sites of historical interest related to the 1876 battle that are not contained within the boundaries of the Monument as it is presently constituted.

(3) The United States has a tradition of preserving the sites of historic battles, in the conviction that such ground is hallowed by the sacrifices of those who gave their lives in conflict, and in the hope that understanding the events of our past, especially tragic events, helps us to understand the people we have become. A necessary part of this preserving and honoring is attempting, as much as is possible, to maintain the appearance of the places where these struggles occurred as the participants would have experienced them.

(4) The area surrounding the Monument has seen markedly increased commercial development in recent years. Such development not only threatens to intrude on the experience of visitors to the Monument, but in many instances the development has actually taken place directly on sites of historical importance, irrevocably altering physical features of the landscape that are crucial for understanding what took place at the Battle of the Little Bighorn.

(5) It is in the interest of the United States to preserve the integrity of the site of the Battle of the Little Bighorn, an event of lasting significance for the United States and for the sovereign Indian nations. In order to preserve this historical treasure, it is imperative that additional lands surrounding the Monument be set aside and given protected status or be made part of the Monument itself.

(6) All areas of the Monument, as well as the other areas of historical interest, are completely contained within the external boundaries of the Crow Indian Reservation.

(7) There is every indication that additional land and facilities are available for inclusion in the Monument through either voluntary conveyance or by gift or donation from private individuals and entities.

(b) PURPOSES.—It is the purpose of this Act—

(1) to establish a cooperative and collaborative process for expanding and enhancing the Monument;

(2) to ensure that the process established by this Act reflects the social, historical and cultural concerns of the Indian tribes participating in such processes in a manner consistent with the long-standing Federal policy to encourage tribal self-determination; and

(3) to ensure that the resources within the Monument are protected and enhanced by—

(A) providing for partnerships between the Crow Tribe, the National Park Service, and the Native American Tribes who participated in the Battle of Little Bighorn; and

(B) encouraging private individuals and entities to donate land and facilities to the Monument.

SEC. 3. LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT ENHANCEMENT COMMITTEE.

(a) IN GENERAL.—There is established a committee to be known as the ''Little Bighorn Battlefield National Monument Enhancement Committee'' (referred to in this section as the ''Committee'').

(b) COMPOSITION.—The Committee shall be composed of—

(1) 1 member appointed by the Secretary of Interior to represent the Department of Interior;

(2) 3 members appointed by the Secretary of Interior to represent the Native American tribes who participated in the Battle of Little Bighorn; and

(3) 1 member appointed by the Crow Indian tribe.

(c) ADMINISTRATIVE PROVISIONS.—

(1) QUORUM; MEETINGS.—Three members of the Committee shall constitute a quorum. The Committee shall act and provide advise by the affirmative vote of a majority of the members voting at a meeting at which a quorum is present. The Committee shall meet on a regular basis. Notice of meetings and the agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the Monument. Committee meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(2) ADVISORY FUNCTIONS.—The Committee shall advise the Secretary to ensure that the Monument, its resources and landscape, is sensitive to the history being portrayed and artistically commendable.

(3) TECHNICAL STAFF.—In order to provide staff support and technical services to assist the Committee in carrying out its duties under this Act, upon the request of the Committee, the Secretary of the Interior is authorized to detail any personnel of the National Park Service to the Committee.

(4) COMPENSATION.—Members of the Committee shall serve without compensation but shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(5) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776), are hereby waived with respect to the Committee.

(d) DUTIES.—The Committee shall—

(1) maintain a registry of facilities and land that may be offered by private individuals and entities by gift, sale, transfer, or other voluntary conveyance for inclusion in the Monument;

(2) by a majority vote determined whether some or all of a parcel of land or facility listed on the registry under paragraph (1) is appropriate for inclusion as a part of the Monument; and

(3) in the case of a positive recommendation under subparagraph (A), provide advise to the Secretary on—

(A) whether the land or facility involved may be available for no or nominal consideration or under what terms and conditions the owner of such land or facility would be willing to transfer such land or facility for inclusion in the Monument for no or nominal consideration; or

(B) whether the Committee recommends the use of the Fund established under section 5 to acquire such land or facility.

SEC. 4. RULE OF CONSTRUCTION.

Nothing in this act shall be construed to limit or impair the jurisdiction or authority of the Crow Indian tribe.

SEC. 5. ESTABLISHMENT OF FUND.

There is established in the Treasury of the United States a fund to be known as the ''Little Bighorn Battlefield National Monument Enhancement Fund''. The Fund shall be used as provided for in section 3(d)(3)(B) and shall include—

(1) all amounts appropriated to the Fund; and

(2) all amounts donated to the Fund.

By Mr. CAMPBELL:

S. 1339. A bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes; to the Committee on the Judiciary.

Mr. CAMPBELL. Madam President, I am pleased to introduce the ''Persian Gulf War POW/MIA Accountability Act of 2001.'' This bill will help persuade foreign Nations and their inhabitants to take necessary and sometimes risky steps needed to return any surviving American POW/MIAs from the Persian Gulf War by providing asylum to those foreign nationals who cooperate.

This bill builds on S. 484, the Bring Them Home Alive Act of 2000, which I introduced in the 106th Congress. This legislation was signed into law last November. As many of you know, this law provides for the granting of refugee status in the United States to nations of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present.

On January 17, 1991, Lieutenant Commander Michael Speicher's F–18 was shot down over Western Iraq during the first hours of the Persian Gulf War. Based on the accounts of other pilots flying in the mission and 12 hours of radio silence, Lieutenant Commander Speicher was declared Missing in Action, MIA, the next day. On May 22, 1991, his status was changed to Killed in Action/Body Not Recovered, KIA/BNR.

In December 1995, investigators from the Army and Navy found the crash site of Lieutenant Commander Speicher's F–18. Located at the crash site were used flares and parts of a survival kit. Near the site, the canopy of the plane was found which would indicate that Lieutenant Commander Speicher ejected from his plane before it crashed. Based on this and other information, the Navy came to the conclusion that they could no longer assume that Lieutenant Commander Speicher was indeed KIA. On January 11, of this year, the Navy changed his official status from KIA/BNR back to MIA.

News reports indicated one of the major breaks in this case was provided by an Iraqi defector. According to his information, during the first days of the war, he drove a downed American pilot to Baghdad. The pilot was alive and alert. This defector was able to pass two lie detector tests and pointed to Lieutenant Commander Speicher in a photo lineup.

Under this legislation, if Lieutenant Commander Speicher were found alive and returned home, this defector and his family would be granted refugee status in the United States. As a veteran and a proud American, I will not rest until we have exhausted every avenue available to repatriate the brave men and women who have sacrificed so much for the freedom we enjoy. This legislation provides the kinds of incentives we need to help bring American POW/MIAs home alive.

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. 1339

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 ''Persian Gulf War POW/MIA Accountability Act of 2001''.

SEC. 2. AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.

(a) ASYLUM PROGRAM.—The Bring Them Home Alive Act of 2000 (Public Law 106–484; 114 Stat. 2195; 8 U.S.C. 1157 note) is amended by inserting after section 3 the following new section:

''SEC. 3A. AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.

''(a) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

''(b) ELIGIBILITY.—Refugee status shall be granted under subsection (a) to—

''(1) any alien who—

''(A) is a national of Iraq or a nation of the Greater Middle East Region (as determined by the Attorney General in consultation with the Secretary of State); and

''(B) personally delivers into the custody of the United States Government a living American Persian Gulf War POW/MIA; and

''(2) any parent, spouse, or child of an alien described in paragraph (1).

''(c) DEFINITIONS.—In this section:

''(1) AMERICAN PERSIAN GULF WAR POW/MIA.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'American Persian Gulf War POW/MIA' means an individual—

''(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Persian Gulf War, or any successor conflict, operation, or action; or

''(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Persian Gulf War, or any successor conflict, operation, or action.

''(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual's post of duty without authority.

''(2) MISSING STATUS.—The term 'missing status', with respect to the Persian Gulf War, or any successor conflict, operation, or action, means the status of an individual as a result of the Persian Gulf War, or such conflict, operation, or action, if immediately before that status began the individual—

''(A) was performing service in Kuwait, Iraq, or another nation of the Greater Middle East Region; or

''(B) was performing service in the Greater Middle East Region in direct support of military operations in Kuwait or Iraq.

''(3) PERSIAN GULF WAR.—The term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.''.

(b) BROADCASTING INFORMATION.—Section 4(a)(2) of that Act is amended—

(1) by striking ''and'' at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

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

''(C) Iraq, Kuwait, or any other country of the Greater Middle East Region (as determined by the International Broadcasting Bureau in consultation with the Attorney General and the Secretary of State).''.

By Mr. CAMPBELL:

S. 1340. A bill to amend the Indian Land Consolidation Act to provide for probate reform with respect to trust or restricted lands; to the Committee on Indian Affairs.

Mr. CAMPBELL. Madam President, today, I am pleased to introduce the Indian Probate Reform Act of 2001 which builds on the solid foundations of the Indian Land Consolidation Act Amendments of 2000, P.L. 106–462, which I also sponsored.

The Land Consolidation Act Amendments were necessary for two reasons. First, it rewrote the parts of the existing law that were held unconstitutional by the United States Supreme Court.

Second, many of the laws dealing with Indian probate and the use of Indian land had been in place for more than a century. Through P.L. 106–462, Congress was able to revisit those laws to remove provisions that were based on out-dated, misguided, and discredited federal policies.

As my colleagues know Federal Indian policy is sometimes out-dated, and counter-productive Federal laws impede tribal efforts to achieve economic self determination and sufficiency.

As Congress worked on the Land Consolidation Act Amendments, it became clear that other laws also needed to be updated but could not be addressed until we enacted P.L. 106–462. With that work completed, we now have an opportunity to remove a number of complications concerning the probate of Indian estates and lands.

Presently about 20 different State laws of interstate succession apply to the inheritance of Indian allotments. This makes it almost impossible for the Federal Government to provide general probate planning advice to allotment owners.

Also, administrative law judges must monitor developments and changes in the probate laws of every State where allotments are located. This is simply an unnecessary waste of their time and tax dollars. The average Indian estate takes more than a year to probate, and in some cases a decedent's heirs will have died before the decedent's probate is completed. We can do better.

I am pleased that Interior Secretary Norton is making trust fund reform such a high priority. But we in Congress have to do our part to support these efforts. I trust that my colleagues share my commitment to ensure that adequate resources are available to support real trust reform efforts. We must also be willing to roll up our sleeves and take a good hard look at the laws that provide the framework for the use and probate of Indian trust lands, especially trust lands that are in individual Indian ownership.

This bill is the next step in completing the work we began last Congress by establishing uniform federal Indian probate rules.

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

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

S. 1340

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 ''Indian Probate Reform Act of 2001''.

SEC. 2. AMENDMENTS TO THE INDIAN LAND CONSOLIDATION ACT.

(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

''Subtitle B—Indian Probate Reform

''SEC. 231. FINDINGS.

''Congress makes the following findings:

''(1) The General Allotment Act of 1887 (commonly known as the ''Dawes Act''), which authorized the allotment of Indian reservations, did not allow Indian allotment owners to provide for the testamentary disposition of the land that was allotted to such owners.

''(2) The Dawes Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment.

''(3) The Federal Government's reliance on the State law of intestate succession with respect to the descendency of allotments has resulted in numerous problems to Indian tribes, their members, and the Federal Government. These problems include—

''(A) the increasing fractionated ownership of trust and restricted land as these lands are inherited by successive generations of owners as tenants in common;

''(B) the application of different rules of intestate succession to each of a decedent's interests in trust and restricted land if such land is located within the boundaries of different States which makes probate planning unnecessarily difficult and impedes efforts to provide probate planning assistance or advice;

''(C) the absence of a uniform general probate code for trust and restricted land which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

''(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which is unfair to the owners of trust and restricted land and their heirs and devisees and which makes probate planning more difficult.

''(4) Based on the problems identified in paragraph (3), a uniform Federal probate code would likely—

''(A) reduce the number of unnecessary fractionated interests in trust or restricted land;

''(B) facilitate efforts to provide probate planning assistance and advice;

''(C) facilitate inter-tribal efforts to produce tribal probate codes pursuant to section 206; and

''(D) provide essential elements of general probate law that are not applicable on the date of enactment of this subtitle to interests in trust or restricted land.

''SEC. 232. RULES RELATING TO INTESTATE INTERESTS AND PROBATE.

''(a) IN GENERAL.—Any interest in trust or restricted land that is not disposed of by a valid will shall—

''(1) descend according to a tribal probate code that is approved pursuant to section 206; or

''(2) in the case of an interest in trust or restricted land to which such a code does not apply, be considered an 'intestate interest' and descend pursuant to subsection (b), this Act, and other applicable Federal law.

''(b) INTESTATE SUCCESSION.—An interest in trust or restricted land described in subsection (a)(2) (intestate interest) shall descend as provided for in this subsection in the following order:

''(1) SURVIVING INDIAN SPOUSE.—

''(A) SOLE HEIR.—A surviving Indian spouse of the decedent shall receive all of the decedent's intestate interests if no Indian child or grandchild of the decedent survives the decedent.

''(B) OTHER HEIRS.—A surviving Indian spouse of the decedent shall receive a one-half interest in each of the decedent's intestate interests if the decedent is also survived by Indian children or grandchildren.

''(C) HEIRS OF THE FIRST OR SECOND DEGREE OTHER THAN SURVIVING INDIAN SPOUSE.—The one-half interest in each of the decedent's intestate interests that do not descend to the surviving Indian spouse under subparagraph (B) shall descend in the following order:

''(i) To the Indian children of the decedent in equal shares, or to the Indian grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the Indian children of the decedent do not survive the decedent.

''(ii) If the decedent is not survived by Indian children or grandchildren, to the surviving Indian parent of the decedent, or to both of the surviving Indian parents of the decedent as joint tenants with the right of survivorship.

''(iii) If the decedent is not survived by any person who is eligible to inherit under clause (i) or (ii), to the surviving Indian brothers and sisters of the decedent.

''(iv) If the decedent is not survived by any person who is eligible to inherit under clause (i), (ii), or (iii), the intestate interests shall descend, or may be acquired, as provided for in section 207(a)(3)(B), 207(a)(4), or 207(a)(5).

''(2) NO SURVIVING INDIAN SPOUSE.—If the decedent is not survived by an Indian spouse, the intestate interests of the decedent shall descend to the individuals described in subparagraphs (A) through (D) who survive the decedent in the following order:

''(A) To the Indian children of the decedent in equal shares, or to the Indian grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the Indian children of the decedent do not survive the decedent.

''(B) If the decedent is not survived by Indian children or grandchildren, to the surviving Indian parent of the decedent, or to both of the surviving Indian parents of the decedent as joint tenants with the right of survivorship.

''(C) If the decedent is not survived by any person who is eligible to inherit under subparagraph (A) or (B), to the surviving Indian brothers and sisters of the decedent.

''(D) If the decent is not survived by any person who is eligible to inherit under subparagraph (A), (B), or (C), the intestate interests shall descend, or may be acquired, as provided for in section 207(a)(3)(B), 207(a)(4), or 207(a)(5).

''(3) SURVIVING NON-INDIAN SPOUSE.—

''(A) NO DESCENDANTS.—A surviving non-Indian spouse of the decedent shall receive a life estate in each of the intestate interests of the decedent pursuant to section 207(b)(2) if the decedent is not survived by any children or grandchildren.

''(B) DESCENDANTS.—A surviving non-Indian spouse of the decedent shall receive a life estate in one-half of the intestate interests of the decedent pursuant to section 207(b)(2) if the decedent is survived by at least one of the children or grandchildren of the decedent.

''(C) DESCENDANTS OTHER THAN SURVIVING NON-INDIAN SPOUSE.—The one-half life estate interest in each of the decedent's intestate interests that do not descend to the surviving non-Indian spouse under subparagraph (B) shall descend to the children of the decedent in equal shares, or to the grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the children of the decedent do not survive the decedent.

''(4) NO SURVIVING SPOUSE OR INDIAN HEIRS.—If the decedent is not survived by a spouse, a life estate in the intestate interests of the decedent shall descend in the following order:

''(A) To the children of the decedent in equal shares, or to the grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the children of the decedent do not survive the decedent.

''(B) If the decedent has no surviving children or grandchildren, to the surviving parents of the decedent.

''(5) REMAINDER INTEREST FROM LIFE ESTATES.—The remainder interest from a life estate established under paragraphs (3) and (4) shall descend in the following order:

''(A) To the Indian children of the decedent in equal shares, or to the Indian grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the children of the decedent do not survive the decedent.

''(B) If there are no surviving Indian children or grandchildren of the decedent, to the surviving Indian parent of the decedent or to both of the surviving Indian parents of the decedent as joint tenant with the right of survivorship.

''(C) If there is no surviving Indian child, grandchild, or parent, to the surviving Indian brothers or sisters of the decedent in equal shares.

''(D) If there is no surviving Indian descendant or parent, brother or sister, the intestate interests of the decedent shall descend, or may be acquired, as provided for in section 207(a)(3)(B), 207(a)(4), or 207(a)(5).

''(c) SPECIAL RULE RELATING TO SURVIVAL.—For purposes of this section, an individual who fails to survive a decedent by at least 120 hours is deemed to have predeceased the decedent for purposes of intestate succession, and the heirs of the decedent shall be determined accordingly. If it is not established by clear and convincing evidence that an individual who would otherwise be an heir survived the decedent by at least 120 hours, such individual shall be deemed to have failed to survive for the required time-period for purposes of the preceding sentence.

''(d) PRETERMITTED SPOUSES AND CHILDREN.—

''(1) SPOUSES.—For purposes of this section, if the surviving spouse of a testator married the testator after the testator executed his or her will, the surviving spouse shall receive the intestate share in trust or restricted land that such spouse would have otherwise received if the testator had died intestate. The preceding sentence shall not apply to an interest in trust or restricted lands where—

''(A) the will is executed before the date specified in section 234(a);

''(B) the testator's spouse is a non-Indian and the testator has devised his or her interests in trust or restricted land to an Indian or Indians;

''(C) it appears from the will or other evidence that the will was made in contemplation of the testator's marriage to the surviving spouse;

''(D) the will expresses the intention that it is to be effective notwithstanding any subsequent marriage; or

''(E) the testator provided for the spouse by a transfer of funds or property outside of the will and an intent that the transfer be in lieu of a testamentary provision is demonstrated by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

''(2) CHILDREN.—For purposes of this section, if a testator executed his or her will prior to the birth of 1 or more children of the testator and the omission is the product of inadvertence rather than an intentional omission, such children shall share in the decedent's intestate interests in trust or restricted lands as if the decedent had died intestate.Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (54 Stat 746) shall be treated as a decedent's child under this section.

''(e) DIVORCE.—

''(1) SURVIVING SPOUSE.—

''(A) IN GENERAL.—For purposes of this section, an individual who is divorced from the decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, such individual is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife shall not be considered a divorce for purposes of this subsection.

''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to prevent an entity responsible for adjudicating interests in trust or restricted land from giving force and effect to a property right settlement if one of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

''(2) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—If after executing a will the testator is divorced or the marriage of the testator is annulled, upon the effective date of the divorce or annulment any disposition of interests in trust or restricted land made by the will to the former spouse shall be deemed to be revoked unless the will expressly provides otherwise. Property that is prevented from passing to a former spouse based on the preceding sentence shall pass as if the former spouse failed to survive the decedent. Any provision of a will that is revoked solely by operation of this paragraph shall be revived by the testator's remarriage to the former spouse.

''(f) NOTICE.—To the extent practicable, the Secretary shall notify the owners of trust and restricted land of the provisions of this title. Such notice may, at the discretion of the Secretary, be provided together with the notice required under section 207(g).

''SEC. 233. COLLECTION OF PAST-DUE AND OVER-DUE CHILD SUPPORT

''The Secretary shall establish procedures to provide for the collection of past-due or over-due support obligations entered by a tribal court or any other court of competent jurisdiction from the revenue derived from an interests in trust or restricted land.

''SEC. 234. EFFECTIVE DATE.

''(a) IN GENERAL.—The provisions of this title shall not apply to the estate of an individual who dies prior to the later of—

''(1) the date that is 1 year after the date of enactment of this subtitle; or

''(2) the date specified in section 207(g)(5).''.

(b) OTHER AMENDMENTS.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) by inserting after section 202, the following:

''Subtitle A—General Land Consolidation'';

(2) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a)(3)—

(i) by striking ''The Secretary'' and inserting the following:

''(A) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

''(B) TRIBAL PROBATE CODES.—A tribal probate code shall not prevent the devise of an interest in trust or restricted land to nonmembers of the tribe unless the code—

''(i) provides for the renouncing of interests, reservation of life estates, and payment of fair market value in the manner prescribed under subsection (c)(2); and

''(ii) does not prohibit the devise of an interest in an allotment to an Indian person if such allotment was originally allotted to the lineal ancestor of the devisee.''; and

(B) in subsection (c)(2)—

(i) in subparagraph (A)—

(I) by striking ''IN GENERAL.—Paragraph'' and inserting the following:

''(A) NONAPPLICABILITY TO CERTAIN INTERESTS.—

''(i) IN GENERAL.—Paragraph'';

(II) by striking ''if, while'' and inserting the following: ''if—

''(I) while'';

(III) by striking the period and inserting ''; or''; and

(IV) by adding at the end thereof the following:

''(II) the interest is part of a family farm that is devised to a member of the decedent's family if the devisee agrees that the Indian tribe that exercises jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

''(ii) RULE OF CONSTRUCTION.—Nothing in clause (i)(II) shall be construed to prevent or limit the ability of an owner of land to which such clause applies to mortgage such land or to limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement pursuant to applicable law.''; and

(ii) in subparagraph (B), by striking ''207(a)(6)(B)'' and inserting ''207(a)(6)'';

(3) in section 207 (25 U.S.C. 2206)—

(A) in subsection (a)(6), by striking subparagraph (A) and inserting the following:

''(A) DEVISE TO OTHERS.—

''(i) IN GENERAL.—Notwithstanding paragraph (2), an owner of trust or restricted land—

''(I) who does not have an Indian spouse or an Indian lineal descendant may devise his or her interests in such land to his or her spouse, lineal descendant, heirs of the first or second degree, or collateral heirs of the first or second degree;

''(II) who does not have a spouse or an Indian lineal descendent may devise his or her interests in such land to his or her lineal descendant, heirs of the first or second degree, or collateral heirs of the first or second degree; or

''(III) who does not have a spouse or lineal descendant may devise his or her interests in such land to his or her heirs of the first or second degree, or collateral heirs of the first or second degree.

''(ii) RULE OF CONSTRUCTION.—Any devise of an interest in trust or restricted land under clause (i) to a non-Indian will be construed to devise a life estate unless the devise explicitly states that the testator intends for the devisee to take the interest in fee.

''(B) UNEXERCISED RIGHTS OF REDEMPTION.—

''(i) IN GENERAL.—This subparagraph (B) shall only apply to interests in trust or restricted land that are held in trust or restricted status as of the date of enactment of the Indian Probate Reform Act of 2001, and interests in any parcel of land, at least a portion of which is in trust or restricted status as of such date of enactment, that is subject to a tax sale, tax foreclosure proceeding, or similar proceeding.

''(ii) EXERCISE OF RIGHT.—If the owner of such an interest referred to in clause (i) fails or refuses to exercise any right of redemption that is available to that owner under applicable law, the Indian tribe that exercises jurisdiction over the trust or restricted land referred to in such clause may exercise such right of redemption.

''(iii) PENALTIES AND ASSESSMENTS.—To the extent permitted under the Constitution of the United States, an Indian tribe acquiring an interest under clause (i) may acquire such an interest without being required to pay—

''(I) penalties; or

''(II) past due assessments that exceed the fair market value of the interest.''; and

(B) in subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)''; and

(4) in section 217 (25 U.S.C. 2216)—

(A) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using or consolidating, or is applying to, lease, use, or consolidate,''; and

(B) in subsection (f)—

(A) by striking ''After the expiration of the limitation period provided for in subsection (b)(2) and prior'' and inserting ''Prior''; and

(B) by striking ''sold, exchanged, or otherwise conveyed under this section''.

(c) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (24 Stat. 348) is amended by striking the second proviso and inserting the following: ''*Provided*, That the rules of intestate succession under the Indian Land Consolidation Act, or a tribal probate code approved under such Act and regulations, shall apply thereto after such patents have been executed and delivered:''.

By Mr. HATCH (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 1341. A bill to amend the Internal Revenue Code of 1986 to expand human clinical trials qualifying for the orphan drug credit, and for other purposes; to the Committee on Finance.

Mr. HATCH. Madam President, I rise today to introduce legislation to clarify and expand the expenses qualifying for the orphan drug tax credit. I am pleased to be joined in this legislation by Senators KENNEDY and JEFFORDS.

As the original sponsor of the legislation authorizing the orphan drug program, and a leader in the Senate in our successful effort in 1996 to make the tax credit permanent, I am here today to ask my colleagues to support a needed improvement to the Orphan Drug Tax Credit. This improvement would make the tax credit even more effective in advancing the development of treatments for life-threatening rare diseases and conditions.

The Orphan Drug Tax Credit provides tax incentives to companies that develop treatments for diseases affecting fewer than 200,000 people, a population typically too small to provide a natural impetus for the private sector to take the necessary risks to develop a remedy that may never be profitable. The diseases covered under the credit include: ALS, Lou Gehrig's disease;

cerebral palsy; cystic fibrosis; epilepsy; Gaucher's disease; Hunington disease; sickle cell disease; and system lupus erythematosus, Lupus. More than 20 million Americans suffer from these rare diseases.

The Orphan Drug Tax Credit has been very successful. For example, in the case of multiple sclerosis, 6 years ago there was no treatment for any type of the disease, only for its symptoms. Thanks in large part to this law, there are now three products on the market to treat the disease.

Unfortunately, the design of the credit includes a flaw that limits its effectiveness. The bill we are introducing today would correct this problem. Under the current Orphan Drug Tax Credit, a 50 percent is available for expenses related to human clinical testing of drugs that are designated as meeting the statutory definition of an ''orphan'' by the Food and Drug Administration, FDA. Qualifying expenses are those paid or incurred after the date on which the drug is designated as a potential treatment for a rare disease or disorder.

The problem is that qualified expenses incurred during the time it takes the FDA to officially designate the drug as an ''orphan'' are not eligible for the credit. Unfortunately, the FDA approval process can take from two months to more than a year. In some cases, companies developing these potentially life-saving drugs are left with a difficult decision, delay the start of the clinical trials until the designation is received, or go ahead and start the trials without the designation, but forego the benefits of tax credit that is so crucial to offsetting the high cost of developing these drugs. Neither choice is in the best interest of the 20 million Americans who are waiting and hoping for a cure for their disorder.

The bill we are introducing today would solve this problem by simply providing that qualifying expenses include those incurred after the date on which the company files an application with the FDA for designation of the drug as a potential treatment for a rare disease or disorder. The credit's availability for these pre-designation expenses, however, is conditioned upon the FDA actually making the designation. Thus, under this change, the designation must still first be granted before the credit could be claimed. But, once the designation is granted, the credit could be claimed for both the clinical testing expenses incurred between the filing of the application and the designation date, as well as for those incurred after the designation date.

It is important to note that this change will also simplify the current law. In fact, this change was recommended earlier this year by the staff of the Joint Committee on Taxation in its study of recommendations to simplify the Federal tax system.

The bill would also make one other change designed to help Americans suffering from rare diseases. It would provide that the FDA publish on a monthly basis a list of applications for orphan drug designations. This provision will allow rare disease patients early access to information about proposed clinical trials and will help the industry locate research subjects for their studies.

The Orphan Drug Tax Credit enjoys wide bipartisan support, and rightly so. It is a tax incentive that works. Now, we have a chance to make it work even better. The tax clarification in this bill was passed in both the Senate twice in the 106th Congress, once in H.R. 2488, the Financial Freedom Act of 1999, which was vetoed by President Clinton for unrelated reasons, and again in H.R. 4577, the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 2001, which passed on July 10, 2000.

I urge my colleagues to support this legislation and I ask unanimous consent that the text of bill be printed in the RECORD.

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

S. 1341

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

SECTION 1. EXPANDED HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Subclause (I) of section 45C(b)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

''(I) after the date that the application is filed for designation under such section 526, and''.

(b) CONFORMING AMENDMENT.—Clause (i) of section 45C(b)(2)(A) of the Internal Revenue Code of 1986 is amended by inserting ''which is'' before ''being'' and by inserting before the comma at the end ''and which is designated under section 526 of such Act''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2001.

SEC. 2. PUBLICATION OF FILING AND APPROVAL OF REQUESTS FOR DESIGNATION OF DRUGS FOR RARE DISEASES OR CONDITIONS.

Subsection (c) of section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb) is amended to read as follows:

''(c) Not less than monthly, the Secretary shall publish in the Federal Register, and otherwise make available to the public, notice of requests for designation of a drug under subsection (a) and approvals of such requests. Such notice shall include—

''(1) the name and address of the manufacturer and the sponsor;

''(2) the date of the request for designation or of the approval of such request;

''(3) the nonproprietary name of the drug and the name of the drug under which an application is filed under section 505(b) or section 351 of the Public Health Service Act;

''(4) the rare disease or condition for which the designation is requested or approved; and

''(5) the proposed indication for use of the product.''.

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

S. 1342. A bill to allocate H–1B visas for demonstration projects in rural America; to the Committee on the Judiciary.

Mr. DORGAN. Madam President, I'm pleased to be joined by Senator STEVENS in introducing legislation that we believe will develop high-tech employment opportunities in small towns and rural communities by using the H–1B visa program in a meaningful way for rural States.

Over the past several decades, hundreds of communities in rural America have seen their populations shrink by more than a third. Devastated by the overwhelming loss of people and businesses, or outmigration, these rural communities have been stymied in their efforts to grow their economies and create jobs for their people. Most of these areas have also not benefited from the recent technology-driven growth in the economy. The combined effects of this economic stagnation and isolation have made it extremely difficult for these small rural towns to attract high-tech companies and recruit the skilled technology workers that they need to participate in the new economy.

The proposal we are introducing today builds upon legislation signed into law by President Clinton last fall that provided the Nation's high-technology companies with the stopgap measure they needed to secure skilled workers for unfilled positions by increasing the annual number of foreign workers that can receive H–1B status to 195,000 over the next three years. That legislation, which I supported, was an appropriate short-term response to the problems caused by a scarcity of qualified labor that threatened the nation's continued economic growth.

The bill that Senator STEVENS and I are now introducing is called the ''21st Century Homesteading Act.'' It would establish up to six H–1B visa demonstration projects in qualifying rural areas, including those devastated by population loss. This legislation is designed to encourage high-technology firms to grow their businesses and increase employment in those distressed rural areas that need them the most. It would do this by both awarding grant funds and targeting a small portion of the total annual H–1B visa allocations to economic development planning districts in eligible areas.

The major provisions of the 21st Century Homesteading Act are as follows:

Six demonstration programs. The bill authorizes and requires the Secretary of Agriculture to conduct up to six demonstration H–1B visa projects to be implemented through the award of grant funding to qualifying economic development planning districts in rural areas.

Application process. To apply for grant funds, economic development planning districts would be required, among other things, to submit an application to the Secretary, sign a resolution of support to bring high-tech development opportunities into that district, and execute a declaration of need confirming that the area has experienced substantial outmigration, has

high unemployment or poverty rates, or has a population that is 10 percent or more Native American.

Local transfer of visa fees. The amount of each grant awarded to eligible districts would be equal to the H–1B visa fees paid by petitioning employers. Grants can be used only to provide education, training, equipment, and infrastructure in connection with the employment of H–1B workers within that district.

Total of 12,000 H–1B visas. Up to 12,000 H–1B visas could be issued to eligible aliens for employment through these demonstration projects—and no one planning district could issue more than 2,000 H–1B visas.

New account for program funds. A separate ''Twenty-first Century Homesteading Account'' would be established in the Treasury general fund. The H–1B visa fees paid for foreign workers in approved demonstration projects would be deposited into that account and remain available to the Agriculture Secretary until expended to carry out such projects.

Let me be clear on three points. First, we do not intend with this legislation to replace skilled American workers with their foreign counterparts. Under current law, H–1B visas are temporary and firms that significantly rely on them must have attempted to hire U.S. workers and attest that a U.S. worker is not laid off during a significant period of time before and after an H–1B worker is hired. Our legislation would not change these and other restrictions. Furthermore, the 21st Century Homesteading Act also requires designated economic development planning districts to establish training programs for other workers who live in that district.

Second, this legislation permits an allocation of no more than 2,000 H–1B visas for each of the six demonstration projects that are authorized. Thus, even if all 12,000 H–1B visas were ultimately allocated to the full six demonstration projects, that number would still represent less than one-tenth of the total H–1B visas permitted in the first year. This small allocation of H–1B visas should have little or no impact on the overall efforts of companies seeking H–1B workers in other parts of the country. In fact, to date, only 117,000 of the 195,000 H–1B visas available for this year have been approved, so allocating a small portion for these demonstration programs should not present a problem.

And third, this legislation in no way increases or decreases the overall levels of immigration into the country. It simply targets a very small number of existing employment visas to those communities that have not benefited from the recent technology boom, and which are likely to benefit the most from the addition of new residents with the necessary skills to help attract and retain high-tech employers.

Finally, I would note that the prospect for these demonstration projects is not merely a theoretical exercise. This approach was raised with me by economic development officials in North Dakota who stand ready, willing, and able to apply for economic development planning district status. In my judgment, this group has already demonstrated the kind and level of commitment that is needed to make this initiative successful.

There is great need in rural America, especially in states like mine. But often this need is not properly addressed here in Washington because of what I think is a fundamental misunderstanding of the problem of outmigration and the economic maladies associated with it. The 21st Century Homesteading Act is an effort to fine tune one of our federal policies in order to address the shortage of skilled labor and lack of job growth in many rural communities. I urge my colleagues to support this important demonstration initiative for rural America.

By Mr. CHAFFEE (for himself, Mrs. FEINSTEIN, Ms. SNOWE, Mr. SCHUMER, Ms. COLLINS, Mr. BINGAMAN, Mr. SPECTER, Mrs. CLINTON, Mr. JEFFORDS, Mr. GRAHAM, Mr. HARKIN, and Mr. CORZINE):

S. 1343. A bill to amend title XIX of the Social Security Act to provide States with options for providing family planning services and supplies to individuals eligible for medical assistance under the Medicaid program; to the Committee on Finance.

Mr. CHAFEE, Madam President, I am pleased to be joined today by Senators FEINSTEIN, SNOWE, BINGAMAN, COLLINS, SCHUMER, SPECTER, GRAHAM, CLINTON, CORZINE, HARKIN, and JEFFORDS in introducing the Family Planning State Empowerment Act of 2001. This legislation would provide States with a mechanism to improve the health of low-income women and families by allowing States to expand family planning services to additional women under the Medicaid program.

The Federal Government currently reimburses States for 90 percent of their expenditures for family planning services under Medicaid, due to the importance of these for low-income women. This reimbursement rate is higher than for most other health care services.

Generally, women may qualify for Medicaid services, including family planning, in one of two ways: they have children and an income level below a threshold set by the State (ranging from 15–86 percent of the Federal poverty level; or they are pregnant and have incomes up to 133 percent of the poverty level, federal law allows states to raise this income eligibility level to 185 percent, if they desire. If a woman qualifies because of pregnancy, she is automatically eligible for family planning services for sixty days following delivery. After those sixty days, the women's Medicaid eligibility expires.

If States want to provide Medicaid family planning services to additional populations of low-income women, they must apply to the federal government for a so-called ''1115'' waiver. These waivers allow States to establish demonstration projects in order to test new approaches to health care delivery in a manner that is budget-neutral to the Federal Government.

To date, these waivers have enabled fourteen States to expand access to family planning services. Most of these waivers allow states to extend family planning to women beyond the sixty-day post-partum period. This allows many women to increase the length of time between births, which was significant health benefits for women and their children. For this reason, an Institute of Medicine report recommended that Medicaid should cover family planning services for two years following a delivery.

Some of the waivers allow States to provide family planning to women based solely on income, regardless of whether they qualify for Medicaid due to pregnancy or children. In general, States have used the same income eligibility levels that apply to pregnant women (133 percent or 185 percent of the poverty level, creating continuity for both family planning and prenatal care services. These expanded services also help states reduce rates of unintended pregnancy and the need for abortion.

My State of Rhode Island was one of the first states to obtain one of these waivers, and has had great success with it in terms of preventing unintended pregnancies and improving public health in general. Rhode Island's waiver has averted 1,443 pregnancies from August 1994 through 1997, resulting in a savings to the state of $14.3 million. In addition, Rhode Island's waiver has assisted low-income women with spacing-out their births. The number of low-income women in Rhode Island with short inter-birth intervals, becoming pregnant within 18 months of having given birth dropped from 41 percent in 1993 to 29 percent in 1999. The gap between Medicaid recipients and privately insured women was 11 percent in 1993, compared with only 1 percent—almost negligible, in 1999. As these statistics show, these waivers are extremely valuable and serve as a huge asset to the women's health, not only to my constituents but to constituents in the thirteen other States who currently benefit from these waivers.

Unfortunately, the waiver process is extremely cubersome and time consuming, often taking up to three years for States to receive approval from the Federal Government. This may discourage States from applying for family planning waivers, or at the very least, delay them from providing important services to women.

Our bill would rectify this problem by allowing States to extend family planning services through Medicaid without going through the waiver process. Eliminating the waiver requirement will facilitate State innovation

and provide assistance to more low-income women.

This bill will allow States to provide family planning services to women with incomes up to 185 percent of the Federal poverty level. For low-income, post-partum women, States will no longer be limited to providing them with only sixty days of family planning assistance. States may also provide family planning for up to one year to women who lose Medicaid-eligibility because of income.

I urge my colleagues to join me in supporting this important legislation, and ask for unanimous consent that the legislation and the accompanying findings section be printed in the RECORD.

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

S. 1343

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 ''Family Planning State Empowerment Act of 2001''.

SEC. 2. STATE OPTION TO PROVIDE FAMILY PLANNING SERVICES AND SUPPLIES TO INDIVIDUALS WITH INCOMES THAT DO NOT EXCEED A STATE'S INCOME ELIGIBILITY LEVEL FOR MEDICAL ASSISTANCE.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1935 as section 1936; and

(2) by inserting after section 1934 the following:

''STATE OPTION TO PROVIDE FAMILY PLANNING SERVICES AND SUPPLIES

''SEC. 1935. (a) IN GENERAL.—Subject to subsections (b) and (c), a State may elect (through a State plan amendment) to make medical assistance described in section 1905(a)(4)(C) available to any individual whose family income does not exceed the greater of—

''(1) 185 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

''(2) the eligibility income level (expressed as a percent of such poverty line) that has been specified under a waiver authorized by the Secretary or under section 1902(r)(2)), as of October 1, 2001, for an individual to be eligible for medical assistance under the State plan.

''(b) COMPARABILITY.—Medical assistance described in section 1905(a)(4)(C) that is made available under a State plan amendment under subsection (a) shall—

''(1) not be less in amount, duration, or scope than the medical assistance described in that section that is made available to any other individual under the State plan; and

''(2) be provided in accordance with the restrictions on deductions, cost sharing, or similar charges imposed under section 1916(a)(2)(D).

''(c) OPTION TO EXTEND COVERAGE DURING A POST-ELIGIBILITY PERIOD.—

''(1) INITIAL PERIOD.—A State plan amendment made under subsection (a) may provide that any individual who was receiving medical assistance described in section 1905(a)(4)(C) as a result of such amendment, and who becomes ineligible for such assistance because of hours of, or income from, employment, may remain eligible for such medical assistance through the end of the 6-month period that begins on the first day the individual becomes so ineligible.

''(2) ADDITIONAL EXTENSION.—A State plan amendment made under subsection (a) may provide that any individual who has received medical assistance described in section 1905(a)(4)(C) during the entire 6-month period described in paragraph (1) may be extended coverage for such assistance for a succeeding 6-month period.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 2001.

SEC. 3. STATE OPTION TO EXTEND THE POSTPARTUM PERIOD FOR PROVISION OF FAMILY PLANNING SERVICES AND SUPPLIES.

(a) IN GENERAL.—Section 1902(e)(5) of the Social Security Act (42 U.S.C. 1396a(e)(5)) is amended—

(1) by striking ''eligible under the plan, as though'' and inserting ''eligible under the plan—

''(A) as though'';

(2) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(B) for medical assistance described in section 1905(a)(4)(C) for so long as the family income of such woman does not exceed the maximum income level established by the State for the woman to be eligible for medical assistance under the State plan (as a result of pregnancy or otherwise).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 2001.

Mrs. FEINSTEIN. Madam President, I am pleased to be joined by a bipartisan group of my colleagues in introducing this important legislation. I rise today with Senators CHAFEE, SNOWE, SCHUMER, COLLINS, BINGAMAN, SPECTER, CLINTON, JEFFORDS, GRAHAM, HARKIN, and CORZINE to introduce the Family Planning State Empowerment Act of 2001.

The Family Planning State Empowerment Act of 2001 would give States the option to provide family planning services to low-income women who do not qualify for Medicaid.

Each year, approximately 3 million pregnancies, or about half of all pregnancies, are unintended. Increasing access to family planning services could help avert these 3 million unintended pregnancies and all the decisions and costs associated with either continuing or terminating a pregnancy.

Family planning services give women the necessary tools to space the births of their children, which improves women's health and reduces rates of infant mortality.

Medicaid family planning is also cost effective. For every $1 invested in family planning, $3 are saved in pregnancy and health care-related costs.

The Federal Government currently reimburses States for 90 percent of their expenditures for family planning services under Medicaid.

If States want to provide Medicaid family planning services to populations of low-income women, other than low-income pregnant women or low-income women with children, they must apply to the Federal Government for a waiver.

Presently, 14 States, including California, have obtained Medicaid waivers from the Federal Government to provide family planning services to over 1.3 million women annually. Another eight States have applied for waivers.

The waiver process is extremely cumbersome and time consuming, often taking up to three years to receive approval from the Federal Government.

This is legislation is timely because once again the door is being closed by the Administration on women's reproductive health. This time, the losers will be low-income women.

Secretary of Health and Human Services Tommy Thompson announced last month that he will not approve any new waiver requests nor grant any renewals for single service waivers, which includes this Medicaid family planning waiver.

And if the Administration gets its way, California will lose $100 million a year, and over 900,000 low-income Californians will have to look elsewhere for family planning and reproductive health services.

Family planning and reproductive health services are much more than just accessing contraceptives. Services provided include screening and treatment for sexually transmitted diseases and HIV, basic infertility services and pregnancy testing and counseling. Women can receive pap smears and breast exams, which are crucial to detecting cervical and breast cancer.

It is estimated that this waiver will save California $900 million over the 5-year waiver period in public expenditures for medical care and social services.

It is ironic that an Administration that is seeking to reduce the number of abortions would try to halt the very family planning services that could avoid unintended pregnancies.

In effect, the Administration is asking the clinics in our States, which provide services to some of our Nation's sickest and most vulnerable populations, to either turn away low-income women that need family planning services at the door or to provide them with services without the necessary funds.

I am pleased to join my colleagues in saying enough is enough. Low income women deserve access to family planning and reproductive health services. And States should not have to ask the federal government for permission to use Medicaid funds to provide these essential services.

It is time that this Administration walk-the-walk and talk-the-talk. We cannot afford to shut the door on those who cannot otherwise afford family planning and reproductive health services.

I urge my colleagues to join me in supporting this important legislation.

Mr. SCHUMER. Madam President, the Family Planning State Empower

ment Act is our long-term shield against the ideological whims of those who threaten to cut cost-effective family planning services for low income women across the country. Why do we need such a protective measure? In the past two weeks, it became clear that the Federal Government would not renew these programs nor would they approve any pending application requests. That is why I, along with 21 of my colleagues including Mr. CHAFEE, sent a letter asking the government to reconsider their decision which would seriously impinge upon the ability of states to expand coverage of family planning services.

The Family Planning State Empowerment Act would allow State governments and agency experts to practice what they know best, implementing these cost-effective family planning service programs that reduce the number of unintended pregnancies and abortions. In New York alone, 13,440 women would be served under its pending family planning service program proposal. As the years go by, States are offering more services to more women all at a minimal cost to the Federal Government.

There are 1.2 million women aged 13 to 44 in New York who are in need of publicly supported contraceptive services, 16.5 million in the United States. Thousands of women have already benefitted from prenatal, delivery, and postpartum family planning services in states such as New York, Georgia, Colorado, Virginia, Wisconsin, and Kentucky, to name a few. These programs successfully help low-income women to avoid closely spaced births that are linked to low birth weight, infant mortality, and maternal morbidity. It would be a shame to curtail the progress of these family planning service programs when there are so many more women to serve.

As part of their applications for federal approval, States are required to demonstrate that expanding Medicaid coverage of family planning services would come at no additional cost to the Federal Government. Every dollar spent for contraceptive services saves $3 in public funds that would have been needed to provide prenatal and newborn medical care alone. New York's pending family planning service program would save the Federal Government $3.2 billion. Instead of allowing these programs to be used as decoys in the ideological battle over choice issues, let us preserve their effectiveness and put them out of the way of federal reach and under full state authority.

Though the Federal Government can play an important oversight role in the welfare of publicly financed programs—it has overstepped its boundaries in using these programs as sacrificial lambs to further its ideological agenda. We cannot stand idly by and let the Federal Government determine the fate of such programs that have proven themselves since 1993 not only economically sound but essential to the provision of vital health services to individuals who could not receive them otherwise. That is why I am a proud original co-sponsor of the Family Planning State Empowerment Act of 2001.

By Mr. CAMPBELL:

S. 1344. A bill to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers; to the Committee on Indian Affairs.

Mr. CAMPBELL. Madam President, today I am pleased to introduce a bill that promotes job creation and economic opportunity for Native Americans. The Native American Commercial Driving Training and Technical Assistance Act will encourage and promote tribally-controlled community colleges to offer commercial vehicle training programs.

Economic development is the key to many of the social and economic ills that plague Indian and Alaska Native communities. In 1999, the Bureau of Indian Affairs labor statistics for Indian and Alaska Native communities determined that the unemployment rate for Indians living near or in Indian communities was 43 percent. This figure is astonishing when compared to the overall unemployment rate in the United States which is only 4.5 percent.

As former Chairman and now Vice-Chairman of the Committee on Indian Affairs, I have focused on building tribal capacity and good governance so that Indian and Alaska Native communities can create business-friendly environments. Human capital and skill development is also important, and with training and certificate programs tribally-controlled community colleges are fostering skilled workers who are ready to enter into the marketplace.

The bill that I am introducing today will enable tribally-controlled community colleges to have more resources to develop commercial vehicle training programs. There are already two tribally-controlled community colleges, D–Q University in the state of California and Fort Peck Community College in the state of Montana, that offer commercial vehicle driving programs. The grant program authorized in this bill will encourage other tribal colleges to develop commercial truck driving training programs.

The trucking industry is a thriving industry. According to the Department of Transportation, there are currently about 3 million truck drivers in the United States. However, the American Trucking Association estimates that between 10 percent and 20 percent of the Nation's trucks sit idle due to a lack of qualified drivers. In fact, estimates range from 200,000 to 500,000 as to the shortage of new qualified drivers that are needed this year and in the coming years.

I am the only Member of the Senate who is a licensed and certified commercial truck driver and who once earned his living as an over-the-road driver.

Based on my personal experience the truck driving industry has something unique to offer Indian communities; a well-paying profession. This is a win-win situation because the trucking industry needs more qualified drivers, and Indian communities need more job opportunities. With this bill,more American Indians will have the opportunity to undertake the training necessary to obtain a Commercial Truck Driver's License, and join a rewarding and well-paying profession.

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. 1344

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 ''Native American Commercial Driving Training and Technical Assistance Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Despite the availability of abundant natural resources on Indian lands and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer higher rates of unemployment, poverty, poor health, substandard housing, and associated social ills than those of any other group in the United States.

(2) The United States has an obligation to assist Indian tribes with the creation of appropriate economic and political conditions.

(3) The economic success and material well-being of Native American communities depends on the combined efforts of the Federal Government, tribal governments, the private sector, and individuals.

(4) Two tribally controlled community colleges, D-Q University in the State of California and Fort Peck Community College in the State of Montana, currently offer commercial vehicle driving programs.

(5) The American Trucking Association reports that at least until the year 2005, the trucking industry will need to hire 403,000 truck drivers each year to fill empty positions.

(6) According to the Federal Government Occupational Handbook the commercial driving industry is expected to increase about as fast as the average for all occupations through the year 2008 as the economy grows and the amount of freight carried by trucks increases.

(7) A career in commercial vehicle driving offers a competitive salary, employment benefits, job security, and a profession.

(b) PURPOSE.—It is the purpose of this Act—

(1) to foster and promote job creation and economic opportunities for Native Americans; and

(2) to provide education, technical, and training assistance to Native Americans who are interested in a commercial vehicle driving career.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMERCIAL VEHICLE DRIVING.—The term ''commercial vehicle driving'' means the driving of a vehicle which is a tractor-trailer truck.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

SEC. 4. COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.

(a) GRANTS.—The Secretary may award 4 grants, on a competitive basis, to eligible entities to support programs providing training and certificates leading to the professional development of individuals with respect to commercial vehicle driving.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a tribally-controlled community college or university (as defined in section 2 of the Tribally-Controlled Community College or University Assistance Act of 1978 (25 U.S.C. 1801)); and

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

(c) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) grant applications that propose training that exceeds the United States Department of Transportation's Proposed Minimum Standards for Training Tractor-Trailer Drivers; and

(2) grant applications that propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the Act.

By Ms. SNOWE (for herself and Ms. COLLINS)

S. 1345. A bill to direct the Secretary of Transportation to establish a commercial truck safety pilot program in the State of Maine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Madam President, I rise today to introduce legislation the Commercial Truck Safety Pilot Program Act to create a safety pilot program for commercial trucks.

The Commercial Truck Safety Pilot Program Act would authorize a safety demonstration program in my home state of Maine that could be a model for other states. I have been working closely with the Maine Department of Transportation, communities in my State, and others to address statewide concerns about the existing Federal Interstate truck weight limit of 80,000 pounds.

I believe that safety must be the number one priority on our roads and highways, and I am very concerned that the existing Interstate weight limit has the perverse impact of forcing commercial trucks onto State and local secondary roads that were never designed to handle heavy commercial trucks safely. We are talking about narrow roads, lanes, and rotaries, with frequent pedestrian crossings and school zones.

I have been working to address this concern for many years. During the 105th Congress, for example, I authored a provision providing a waiver from federal weight limits on the Maine Turnpike the 100-mile section of Maine's Interstate in the southern portion of the State and it was signed into law as part of TEA–21. I have also corresponded with the Department of Transportation and the Senate Environment and Public Works Committee to make them aware of my serious concerns and to urge them to work with me in an effort to address this challenge.

In addition, the Maine Department of Transportation is in the process of conducting a study of the truck weight limit waiver on the Maine Turnpike, and I have been working closely with the State in the hopes of expanding this study, which will focus on the safety impact of higher limits, infrastructure issues, air quality issues and economic issues as well, in order to secure the data necessary to ensure that commercial trucks are required to operate in the safest possible manner.

Federal law attempts to provide uniform truck weight limits, 80,000 pounds, on the Interstate system, but the fact is there are a myriad of exemptions and grandfathering provisions. The legislation I am submitting today would simply direct the Secretary of Transportation to establish a three-year pilot program to improve commercial motor vehicle safety in the State of Maine.

Specifically, the measure would direct the Secretary, during this period, to waive federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the Interstate System within Maine, permitting the State to set the limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety.

I believe this is a measured, responsible approach to a very serious public safety issue. I hope to work with all of those with a stake in this issue, safety advocates, truckers, states, and communities, to address this matter in the most effective possible way, and I hope that my colleagues will join me in this effort.

Ms. COLLINS. Madam President, I rise to join with my colleague from Maine in sponsoring the Commercial Truck Safety Pilot Program Act, an important piece of legislation that addresses a significant safety problem in our State.

Under current law, trucks weighing as much as 100,000 pounds are allowed to travel on Interstate 95 from Maine's border with New Hampshire to Augusta, our capital city located. At Augusta, trucks weighing more than 80,000 pounds are forced off Interstate 95, which proceeds for another 200 miles through the northern half of the State, and on to smaller roads that pass through cities, towns, and villages.

Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts, and New York as well as the Canadian provinces of New Brunswick and Quebec. The weight limit disparity on various segments of Maine's Interstate Highway System forces trucks traveling to and from destinations in these States and provinces to use Maine's State and local roads. Consequently, many Maine communities along the Interstate see substantially more truck traffic than would otherwise be the case if the weight limit were 100,000 pounds for all of Maine's Interstate highways.

The problem Maine faces because of the disparity in truck weight limits is perhaps most pronounced in our State capital. Augusta is the Maine Turnpike's northern terminus where heavy trucks that are prohibited from traveling along the northern segment of Interstate 95 enter and exit the turnpike. The high number of trucks that must traverse Augusta's local roads creates a severe hazard for those who live and work in as well as visit the city.

It is estimated that the truck weight disparity sends 310 vehicles in excess of 80,000 pounds through Augusta everyday. These vehicles, which are often carrying hazardous materials, must pass through the Cony Circle, one of the State's most dangerous traffic circles and the scene of 130 accidents per year. The fact that the circle is named for the twelve hundred student high school that it abuts adds to the severity of the problem.

A uniform truck weight limit of 100,000 pounds on Maine's interstate highways would reduce the highway miles and travel times necessary to transport freight through Maine, resulting in economic and environmental benefits. Moreover, Maine's extensive network of State and local roads will be better preserved without the wear and tear of heavy truck traffic. Most importantly, however, a uniform truck weight limit will keep trucks on the interstate where they belong rather than on roads and highways that pass through Maine's cities, towns, and neighborhoods.

The legislation that Senator SNOWE and I are introducing addresses the safety issues we face in Maine because of the disparities in truck weight limits. The legislation directs the Secretary of Transportation to establish a commercial truck safety pilot program in Maine. Under the pilot program, the truck weight limit on all Maine highways that are part of the interstate highway system would be set at 100,000 pounds for three years. During the waiver period, the Secretary would study the impacts of the pilot program on safety, and would receive the input of a panel that would include State officials, safety organizations, municipalities, and the commercial trucking industry. The waiver would become permanent if the panel determined that motorists were safer as a result of a uniform truck weight limit on Maine's Interstate highway system.

Maine's citizens and motorists are needlessly at risk because too many heavy trucks are forced off the interstate and on to local roads. The legislation Senator SNOWE and I are introducing is not an attempt to roll back

weight standards but rather a commonsense approach to a severe safety problem in my State. I hope my colleagues will support passage of this important legislation.

By Mr. SESSIONS (for himself, Mr. BINGAMAN, Mr. ALLARD, and Ms. COLLINS):

S. 1346. A bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes; to the Committee on Finance.

Mr. SESSIONS. Madam President, we do a lot of things here that are controversial and get headlines. But oftentimes we do things that are bipartisan, that are complex and technical. Working together, we accomplish things that are good for the country.

The legislation I have introduced tonight, along with Senator JEFF BINGAMAN from New Mexico, is that kind of legislation. It is supported by 27 different farm and veterinary medicine groups. It is called the Minor Use and Minor Species Animal Health Act. It deals with a problem that, unfortunately, goes largely unnoticed, except by those who are directly affected. Livestock and food animal producers, pet owners, zoo and wildlife biologists, and animals themselves face a severe shortage of approved animal drugs for use in minor species.

Minor species include thousands of animal species, including all fish, birds, and sheep. By definition, minor species are any animals other than the major species, which are cattle, horses, chickens, turkeys, dogs, and cats. A similar shortage of drugs and medicines for major animal species exists for diseases that occur infrequently or which occur in limited geographical areas.

Due to the lack of availability for these minor use drugs, millions of animals go untreated or treatment is delayed. Without access to these necessary minor use drugs, farmers and ranchers also suffer. An unhealthy animal that is left untreated can spread disease throughout an entire herd. For example, sheep ranchers lost nearly $45 million worth of livestock in 1999 alone. The sheep industry estimates if it had access to effective and necessary drugs to treat diseases, growers' reproduction costs for their animals would be cut by up to 15 percent. In addition, feedlot deaths would be reduced by 1 to 2 percent, adding approximately $8 million of revenue to the industry.

Alabama's catfish industry ranks second in the Nation. Though it is not the State's only aquacultural commodity, catfish is by far its largest. Indeed, catfish make up 68 percent of the Nation's aquacultural industry. That industry generates enormous opportunities in the poorest part of Alabama, and it is necessary that it be a strong industry.

The catfish industry estimates its losses at $60 million per year attributable to diseases for which drugs are not available. Indeed, it is not uncommon for a catfish producer to lose half his stock to disease.

The U.S. aquacultural industry overall, including food fish and ornamental fish, produces and raises over 800 different species. Unfortunately, this industry has only five drugs approved for use in treating aquacultural diseases. This results in economic hardship.

The problem is simply this: A drug company must go through a long research program to develop a drug. Then the company has to seek approval for the drug. The company simply is financially unable to do so because there are not many animals for which the product will be used. It makes it difficult for them to do the investment.

I, along with Senators BINGAMAN, ALLARD, and COLLINS, resolve to improve this situation by introducing the Minor Use and Minor Species Animal Health Act. The legislation will allow animal drug manufacturers the opportunity to develop and obtain approval for minor use drugs which are vitally needed by a wide variety of animal industries.

Our legislation incorporates the major proposals of the Food and Drug Administration's Center for Veterinary Medicine to increase the availability of drugs for minor animal species and rare diseases in all animals. The act creates incentives for animal drug manufacturers to invest in product development and obtain FDA approval.

The legislation creates a program very similar to the human orphan drug program that has dramatically increased the availability of drugs to treat rare human diseases over the past 20 years.

The Minor Use and Minor Species Animal Health Act will not alter, however, the FDA drug approval responsibilities that ensure the safety of animal drugs to the public. The FDA's Center for Veterinary Medicine currently evaluates new animal products prior to approval and use. This rigorous testing and review process provides consumers with the confidence that animal drugs are safe for animals and consumers of products derived from treated animals.

Current FDA requirements include guidelines to prevent harmful residues and evaluations to examine the potential for the selection of resistant pathogens. Any food animal medicine or drug considered for approval under this bill would be subject to the same assessments.

The Minor Use and Minor Species Animal Health Act is supported by 25 organizations, including the American Farm Bureau Federation, the Animal Health Institute, the American Veterinary Medical Association, and the National Aquaculture Association. This is vital, important legislation.

The act will reduce the economic risks and hardships which fall upon ranchers and farmers as a result of livestock diseases. It will benefit pets and their owners and benefit various endangered species and aquatic animals. It will promote the health of all animal species while protecting human health as well, and will alleviate unnecessary animal suffering.

This is commonsense legislation which would benefit millions of American pet owners, farmers, and ranchers. I believe it represents a consensus effort on which we worked hard.

Mary Alice Tyson, on my staff, and other staff members have worked hard on it. I believe it is an act that will gain universal support in the Senate, will be a step forward, and something good we can do to help animals and the producers of animals in America.

By Mr. BAUCUS (for himself and Mr. BYRD):

S. 1347. A bill to establish a Congressional Trade Office; to the Committee on Government Affairs.

Mr. BAUCUS. Madam President, on behalf of myself and Senator BYRD, I am introducing a bill to create a Congressional Trade Office. This is designed to help the Senate get ahead of the curve and better understand and deal with globalization, trade, and economic commercial actions around the world, to help us understand what we are doing.

The Congressional Trade Office, the CTO, will have the expertise we need in Congress to get independent and nonpartisan information about trade. This new entity will help us meet our constitutional responsibility for trade policy.

The importance of trade in our economy continues to grow. Trade is equivalent to 27 percent of our economy today, compared with only 11 percent in 1970, just 30 years ago.

Article I, section 8 of the U.S. Constitution provides:

> Congress shall have the power . . . to regulate commerce with foreign nations.

Our responsibility as Members of Congress is to set the direction of trade policy. It is true that under article II of the Constitution, the President, the Chief Executive, has the primary responsibility with respect to foreign policy. With respect to trade, the Constitution is clear, and it provides that Congress shall have the power to regulate commerce with foreign nations. Our responsibility is effective and active oversight of our Nation's trade policy.

I have served in the Congress for 25 years and I have watched the continuing transfer of responsibility for trade policy from the Congress to the executive branch.

I believe this must stop. We must reassert Congress' constitutionally defined responsibility. The CTO will provide the means to meet our responsibilities.

Congress needs to be much better prepared to deal with trade issues responsibly and authoritatively: consideration of fast track; FTAs—so-called free trade agreements—with Jordan, Chile, Singapore, and perhaps Australia, and others; Chinese accession to the WTO; a possible new round launch; compliance with existing agreements.

To manage trade policy, we need access to more and better information, independently arrived at, from people whose commitment is to the Congress, and only to the Congress.

The first task of the CTO is to monitor compliance with major trade agreements. It will evaluate success based on real world business results. It will recommend actions needed to ensure that commitments are fully implemented. It will also provide annual assessments of the extent to which agreements comply with labor and environmental goals.

The CTO's second task will be to observe trade negotiations firsthand. CTO staff will participate in selected negotiations as observers and report back to the Congress. Congress needs this information to provide meaningful oversight of trade policy. And it is especially vital for Congress to monitor trade negotiations under fast track.

The third task relates to dispute settlement. The CTO will evaluate each WTO decision where the U.S. is a participant, explain why cases are lost, and measure the anticipated commercial results from wins. CTO staff will participate as observers on the U.S. delegation.

Frankly, I don't think we know whether the WTO dispute settlement process has been successful or not, from the perspective of U.S. commercial interests. A count of wins versus losses doesn't tell us very much. The CTO will give us the facts we need to evaluate the process properly.

The final task will be analytical. The CTO will analyze major outstanding trade barriers based on a cost to the U.S. economy. It will also provide an analysis of the administration's—Republican or Democrat—trade policy agenda, and it will analyze the trade accounts every quarter.

The Congressional Trade Office is designed to serve the Congress. Its Director will report to the Senate Finance Committee and the House Ways and Means Committee, but will also advise other committees on the impact of trade negotiations on those committees' areas of jurisdiction.

Trade rules increasingly affect domestic regulations. The CTO can advise on the implications of trade policy for domestic regulatory issues.

The CTO will have a professional staff with a mix of expertise in economics and trade law in various industries and geographic regions. I believe this will give Congress long-term institutional memory on trade, something that is very much needed, particularly when other countries have much more expertise, much more time in their governments devoted to trade and how their countries can benefit from trade basically at the expense of others.

I am very grateful for the support of my good friend, Senator BYRD, and I encourage my colleagues to join with us in creating the Congressional Trade Office. I believe this will help the Congress get a little bit further ahead of the curve, better understand the implications of globalization, and pull us a little bit out of our day-to-day reactive mode around here, thinking more long term in a better sense of what is happening in the world—more information, better information on which we can make decisions in this body and, therefore, serve our people better.

I very much thank my good friend, Senator BYRD. He has been helpful to us. I yield the floor, and I, again, thank him for his help.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I congratulate the Senator from Montana on his longtime leadership in the trade field and for his services on the Finance Committee which has jurisdiction in very great measure over this subject matter. I thank him for his leadership. I thank him for sponsoring the legislation that he has just discussed and for allowing me to be a cosponsor with him. I value his leadership in this area.

I have been long concerned about the U.S. trade policy. It extends over these 49 years in which I have been a Member of the Congress. I am for free trade, and I am for fair trade. I have in recent years voted against the North American Free Trade Agreement. I voted against the GATT/WTO agreements. I voted against the permanent normal trading relations with China. It is my belief that American interests, particularly the interests of American workers, have not been properly represented in these developments. I believe that Congress has allowed itself to take a backseat to the intent of Presidents on making international trade negotiations an executive-to-executive preserve.

Congress should vigorously defend the authority it has been granted under the Constitution, whether the issue is a legislative enactment that strips away the authority of Congress to debate and, if necessary, to amend trade agreements or a constitutional amendment that—in the name of balanced budgets—strips away our power over the purse. The balanced budget amendment is an issue for another occasion. The need for Congress to restore its role with respect to foreign trade, however, is something that Senator BAUCUS and I wish to highlight. We note that article I, section 8, of the Constitution gives Congress the exclusive authority to ''regulate commerce with foreign nations.'' Congress, not the President, has this authority and responsibility.

Unfortunately, over the past few decades, Congress has been less than zealous in safeguarding its prerogatives with respect to foreign trade. The result is that the American people have less input into our trade agreements than they should have. Is there any doubt that the process is less democratic than was intended by the Framers of the Constitution?

U.S. trade negotiators need our input at each and every stage of the process. Enhanced congressional participation will help them in their efforts to reinforce the framework of fair trade. It will give the results of trade negotiations greater legitimacy and increase public understanding of the costs and benefits of globalization. The Constitution demands that we make this effort, and the people we represent expect us to make that effort.

Madam President, now is the time for the House and the Senate to create a Congressional Trade Office modeled after the Congressional Budget Office. Regardless of how each of us may feel about the great trade issues of the day, we should be able to agree that Congress needs better access to information about trade negotiations and the impact of trade agreements on the U.S. economy. It is indisputable that we live in an increasingly interdependent world, and it is our duty under the Constitution to make sure that American interests are properly reflected as the architecture of that world is established.

Senator BAUCUS and I agree on the urgency of this task. Our legislation would establish a nonpartisan Congressional Trade Office the purposes of which would be to first, provide Congress with trade data and analysis; second, participate in all future trade negotiations; third, observe and evaluate international trade dispute resolution processes; and fourth, monitor compliance with major bilateral, regional, and multilateral trade agreements.

The Senate Finance Committee and the House Ways and Means Committee cannot possibly address the full panoply of issues that arise in this day and age in connection with trade legislation. Consequently, trade bills can be—and are—referred to multiple committees in both Houses of Congress. Our bill recognizes this trend and provides that the resources of the Congressional Trade Office will be available to all House and Senate committees of relevant jurisdiction.

I join with Senator BAUCUS in urging our colleagues to seize this opportunity to move toward the restoration of our constitutional role in trade policy. Let us resolve to put ourselves, the Congress, back in the center of the great game of formulating and implementing mutually beneficial international trade agreements.

Madam President, I thank my colleague, Mr. BAUCUS, again, for his leadership, and I yield the floor.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 147—TO DESIGNATE THE MONTH OF SEPTEMBER OF 2001, AS ''NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH''

Mr. WELLSTONE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 147

Whereas alcohol and drug addiction is a devastating disease that can destroy lives, families, and communities;

Whereas alcohol and drug addiction carry direct and indirect costs for the United States of more than $246,000,000,000 each year;

Whereas scientific evidence demonstrates the crucial role that treatment plays in restoring those suffering from alcohol and drug addiction to more productive lives;

Whereas in 1999, research at the National Institute on Drug Abuse at the National Institutes of Health showed that about 14,800,000 Americans were users of illicit drugs, and about 3,500,000 were dependent on illicit drugs; an additional 8,200,000 were dependent on alcohol;

Whereas the 1999 National Household Survey of Drug Abuse, a project of the Substance Abuse and Mental Health Services Administration, showed that drug use varies substantially among States, ranging from a low of 4.7 percent to a high of 10.7 percent for the overall population, and from 8.0 percent to 18.3 percent for youths age 12–17;

Whereas the Office of National Drug Control Policy's 2001 National Drug Control Strategy includes the reduction of the treatment gap for individuals who are addicted to drugs as one of the top 3 goals for reducing the health and social costs to the public;

Whereas the lives of children, families, and communities are severely affected by alcohol and drug addiction, through the effects of the disease, and through the neglect, broken relationships, and violence that are so often a part of the disease of addiction;

Whereas a National Institute on Drug Abuse 4-city study of 1,200 adolescents found that community-based treatment programs can reduce drug and alcohol use, improve school performance, and lower involvement with the criminal justice system;

Whereas a number of organizations and individuals dedicated to fighting addiction and promoting treatment and recovery will recognize the month of September of 2001 as National Alcohol and Drug Addiction Recovery Month;

Whereas the Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Treatment, in conjunction with its national planning partner organizations and treatment providers, have taken a Federal leadership role in promoting Recovery Month 2001;

Whereas National Alcohol and Drug Addiction Recovery Month aims to promote the societal benefits of substance abuse treatment, laud the contributions of treatment providers, and promote the message that recovery from substance abuse in all its forms is possible;

Whereas the 2001 national campaign embraces the theme of ''We Recover Together: Family, Friends and Community'', and highlights the societal benefits, importance, and effectiveness of drug and treatment as a public health service in our country; and

Whereas the countless numbers of those who have successfully recovered from addiction are living proof that people of all races, genders, and ages recover every day from the disease of alcohol and drug addiction, and make positive contributions to their families, workplaces, communities, States, and the Nation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of September of 2001 as ''National Alcohol and Drug Addiction Recovery Month''; and

(2) requests that the President issue a proclamation urging the people of the United States to carry out appropriate programs and activities to demonstrate support for those individuals recovering from alcohol and drug addiction.

Mr. WELLSTONE. Madam President, I rise today to submit a resolution to proclaim September, 2001 as ''National Alcohol and Drug Addiction Recovery Month''. The purpose is to recognize the societal benefits, importance and effectiveness of drug treatment as a public health service. The Year 2001 Recovery Month theme is ''We Recover Together: Family, Friends, and Community'', with a clear message that we need to work together to promote treatment for alcohol and drug addiction throughout our country.

Addiction to alcohol and drugs is a disease that many individuals face as a painful, private struggle, often without access to treatment or medical care. But this disease also has staggering public costs. A 1998 report prepared by The Lewin Group for the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, estimated the total economic cost of alcohol and drug abuse to be approximately $246 billion for 1992. Of this cost, an estimated $98 billion was due to addiction to illicit drugs and other drugs taken for non-medical purposes. This estimate includes addiction treatment and prevention costs, as well as costs associated with related illnesses, reduced job productivity or lost earnings, and other costs to society such as crime and social welfare programs.

Adults and children who have the disease of addiction can be found throughout our society. We know from the outstanding research done at the National Institute on Drug Abuse at the National Institutes of Health that 14,800,000 Americans were users of illicit drugs, and about 3,500,000 were dependent on illicit drugs. An additional 8 million were dependent on alcohol. The 1999 Household Survey of Drug Abuse, a project of the Substance Abuse and Mental Health Services Administration, showed that drug use varies among States, ranges from a low of 4.7 percent to a high of 10.7 percent of the overall population, and from 8.0 percent to 18.3 percent for youths age 12–17.

The 2001 National Drug Control Strategy of the Office of National Drug Control Policy, ONDCP, has recognized the importance of drug treatment. The ONDCP Strategy includes the reduction of the treatment gap for individuals who are addicted to drugs as one of the top 3 goals for reducing the health and social costs to the public. And yet, 80 percent of adolescents needing treatment are unable to access services because of the severe lack of coverage for addiction treatment or the unavailability of treatment programs or trained health care providers in their community. The 1998 Hay Group Report revealed that the overall value of substance abuse treatment benefits has decreased by 74.5 percent from 1988 through 1998, leaving our youth without sufficient medical care for this disease when they are most vulnerable.

We know that addiction to alcohol and other drugs contribute to other problems as well. Addictive substances have the potential for destroying the person who is addicted, as well as his or her family. We know, for example, that fetal alcohol syndrome is the leading known cause of mental retardation. If a woman who was addicted to alcohol could receive proper treatment, fetal alcohol syndrome for her baby would be 100 percent preventable, and more than 12,000 infants born in the U.S. each year would not suffer from fetal alcohol syndrome, with its irreversible physical and mental damage.