a competitive North American market for softwood lumber.

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Con. Res. 138, A concurrent resolution expressing the sense of Congress that the Secretary of Health And Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. Con. Res. 142, A concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

S. CON. RES. 148

At the request of Mr. BROWNBACK, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Colorado (Mr. ALLARD), the Senator from Idaho (Mr. CRAIG), and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. Con. Res. 148, A concurrent resolution recognizing the significance of bread in American history, culture, and daily diet.

AMENDMENT NO. 4856

At the request of Mr. THURMOND, his name was added as a cosponsor of amendment No. 4856 proposed to S.J. Res. 45, a joint resolution to authorize the use of United States Armed Forces against Iraq.

AMENDMENT NO. 4862

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 4862 proposed to S.J. Res. 45, a joint resolution to authorize the use of United States Armed Forces against Iraq.

AMENDMENT NO. 4868

At the request of Mrs. DAYTON, his name was added as a cosponsor of amendment No. 4868 proposed to S.J. Res. 45, a joint resolution to authorize the use of United States Armed Forces against Iraq.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN:

S. 3089. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine, and for other purposes; to the Committee on Finance.

Mr. LEVIN. Mr. President, today I introduce a bill to grant normal trade treatment to the products of Ukraine. My brother, Congressman SANDER LEVIN, has introduced an identical bill, H.R. 4723, in the House. It is our hope that enactment of this legislation will help to build stronger economic ties between the United States and Ukraine.

The cold war era Jackson-Vanik immigration restrictions that deny most favored nation trade status to imports from former Soviet-Block countries are outdated and when applied to Ukraine, inappropriate. Those restrictions were established as a tool to pressure Communist nations to allow their people to freely emigrate in exchange for favorable trade treatment by the United States.

Ukraine does allow it citizens the right and opportunity to emigrate. It has met the Jackson-Vanik test. In fact, Ukraine has been found to be in full compliance with the freedom of emigration requirements under the Jackson-Vanik law. Ukraine has been certified as meeting the Jackson-Vanik requirements on an annual basis since 1992 when a bilateral trade agreement went into effect. It is time the United States recognize this reality by eliminating the Jackson-Vanik restrictions and granting Ukraine normal trading status on a permanent basis. Our bill does this as well as addressing traditional Jackson-Vanik issues such as emigration, religious freedom, restoration of property, and human rights. It also deals with the important trade issues that must be considered when granting a country permanent normal trade relations, PNTR, such as making progress toward World Trade Organization, WTO, accession and tariff and excise tax reductions.

Since reestablishing independence in 1991, Ukraine has taken important steps toward the creation of democratic institutions and a free-market economy. As a member state of the Organization for Security and Cooperation in Europe, OSCE, Ukraine is committed to developing a system of governance in accordance with the principles regarding human rights and humanitarian affairs that are set forth in the Final Act of the Conference on Security and Cooperation in Europe, the Helsinki Final Act. I believe that more needs to be done to reform Ukraine's economy and legal structures, but I believe that the hope for PNTR and thus PNTR itself, can encourage these reforms.

Drawing Ukraine into normal trade relations should lead Ukraine to achieve greater market reform and continue its commitment to safeguarding religious liberty and enforcing laws to combat discrimination as well as expand on the restitution of religious and communal properties. Also, PNTR status will hopefully do more than increase bilateral trade between the United States and Ukraine and encourage increased international investment in Ukraine. Hopefully it will also stimulate the reform we all want and Ukraine deserves on their way to achieving a mature nation statehood.

Ukraine is important to U.S. strategic interests and objectives in Central and Eastern Europe and has participated with the United States in its peacekeeping operations in Europe and has provided important cooperation in the global struggle against international terrorism. It's time we recognize Ukraine's accomplishments and status as an emerging democracy and market economy and graduate it from the Jackson-Vanik restrictions.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 3090. A bill to provide for the testing of chronic wasting disease and other infectious disease in deer and elk herds, to establish the Interagency Task Force on Epizootic Hemorrhagic Disease, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President. I rise today to introduce legislation to address two emergent wildlife diseases in my state, chronic wasting disease, or CWD, and epizootic hemorrhagic disease, or EHD, both of which have been found in Wisconsin's deer. I am pleased to be joined in introducing this legislation today by the Senior Senator from Wisconsin, Mr. KOHL. CWD was detected in wild deer in my state earlier this year, and, unfortunately, has now spread to captive herds. EHD was detected in wild deer in the last week of September. These diseases have become serious and substantial management problems in my home State of Wisconsin.

To address CWD, the State of Wisconsin has decided to eradicate free-ranging white tailed deer within eastern Iowa, western Dane, and southern Sauk counties in an effort to try to eradicate the disease. Wisconsin will sample and test another 50,000 deer statewide. This represents an unprecedented eradication and sampling effort in Wisconsin. Most likely, it is the largest ever undertaken in the United States.

For months, the Wisconsin delegation has been unified, on a bipartisan basis, in seeking Federal assistance from the Administration to combat this problem. We have sought assistance from the United States Department of Agriculture and the Department of the Interior. We have pursued any and every other Federal agency that might be able to provide us with assistance. Some help has been forthcoming, and we are grateful for the help that we have received.

But the help our State has gotten so far to combat CWD isn't near enough. We need to be ready for the deer hunt that begins next month. We need to expand the availability of CWD testing in our State, and we need to expand it now. Wisconsin is undertaking an unprecedented testing program, but USDA has refused to allow Wisconsin to certify private labs to run CWD tests. That is why I have authored this new bill to require USDA to make CWD

screening tests available to the public, that's the only way Wisconsinites can make informed decisions when hunting season arrives.

USDA is concerned that the public may interpret the results of the currently available CWD tests to be more than a determination of whether the deer does or does not have CWD. USDA is concerned because the current tests have certain limitations and are only accurate in determining whether a deer is infected with CWD. No test has yet been approved by the Food and Drug Administration as a way of proving that deer meat is safe to eat.

While I understand USDA's concern that an animal screening test for CWD should not be viewed by the public as a food safety test, at present there is no food safety test for venison. The CWD screening tests are the only tests that are available today. We should make the public aware of the limitations of today's tests, but we should also make those tests available and let the public use their own judgment. The World Health Organization has advised that meat from CWD-infected deer should not be consumed. The only way Wisconsinites can follow the WHO's advice and make an informed decision is to have their deer tested.

This bill addresses Wisconsin's urgent short term need for enhanced testing capacity in two ways. First, the bill requires USDA to release, within 30 days, protocols both for labs to use in performing tests for chronic wasting disease and for the proper collection of animal tissue to be tested. Second, the bill requires USDA to develop a certification program for Federal and non-federal labs, including private labs, allowing them to conduct chronic wasting disease tests within 30 days of enactment. I hope these measures will enhance Wisconsin's capacity to expand deer testing this year. To address longer-term needs the bill directs USDA to accelerate research into the development of live animal tests for chronic wasting disease, including field diagnostic tests, and to develop testing protocols that reduce laboratory test processing time.

I believe that the alternative to not expanding testing in Wisconsin is much worse, and much more challenging than undertaking an effort to educate our hunters about the limitations of current tests. The alternative, frankly, is the spread of this disease. We should be very clear that the Federal Government will be allowing this disease to spread if it does not act to make more testing available.

Concerned hunters, faced with limited information, will simply choose not to hunt Already, the lack of testing is affecting the number of hunters who will take to the woods in Wisconsin this fall. Registration for hunting licenses in my State is already down 30 percent from this time last year. If we do not expand testing in Wisconsin, we will likely guarantee the spread of the disease.

Failure to aggressively work to eradicate CWD before it spreads could allow the very resilient prions that spread the disease to survive in the environment for years, further complicating eradication efforts. And although CWD has never spread to other species, scientists have not ruled out that possibility, and more deer with the disease may well increase the risk.

The bill also addresses another issue, the emergence of another animal disease, this time a viral disease, EHD. This disease has apparently killed eighteen deer in Iowa County, and could have spread beyond the deer population in Iowa County.

This disease affects not only our deer population, but could also harm our world famous dairy industry. While I am told that cows don't frequently die from EHD, they can carry the disease, and some are worried that this disease could subject our dairy herds to quarantine if they were found to have EHD.

Our hunters and dairy industry do seem to have caught a break when it comes to EHD. I understand that colder weather will kill off the biting insects that spread the EHD virus. This should provide some protection for deer and dairy cattle for the next few months. In the meantime, however, we must take steps to prevent the spread of this disease now before it becomes a problem in the spring and to prevent its possibly spreading to our dairy industry.

The Administration has simply not taken sufficient steps on CWD, and I am concerned that it will again fail to do enough if EHD becomes a problem. That's why my legislation today also includes a provision to create an action plan to address concerns about EHD. It would require that the Secretary of Agriculture create a federal working group to outline what actions the federal government is taking now, and to determine the future actions that are important to take in addressing EHD.

My legislation is also budget neutral. It won't cost taxpayers a dime. It asks USDA to undertake these activities using current funds. I refuse to accept that USDA cannot find the resources within its budget of over seventy three billion dollars to take these actions. The Department must find the means to develop an efficient and accurate way to certify private labs to conduct CWD tests following the standards that the USDA labs use.

Legislative action on this problem is urgently needed. We cannot afford to wait, or we will allow these wildlife diseases to spread. This legislation is a necessary step in ensuring that we can bring these diseases under control and I urge its swift consideration.

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. 3090

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 ''Comprehensive Wildlife Disease Testing Acceleration Act of 2002''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CHRONIC WASTING DISEASE.—The term ''chronic wasting disease'' means the animal disease that afflicts deer and elk—

(A) that is a transmissible disease of the nervous system resulting in distinctive lesions in the brain; and

(B) that belongs to the group of diseases—

(i) that is known as transmissible spongiform encephalopathies; and

(ii) that includes scrapie, bovine spongiform encephalopathy, and Cruetzfeldt-Jakob disease.

(2) EPIZOOTIC HEMORRHAGIC DISEASE.—The term ''epizootic hemorrhagic disease'' means the animal disease afflicting deer and other wild ruminants—

(A) that is an insect-borne transmissible viral disease; and

(B) that results in spontaneous hemorraging in the muscles and organs of the afflicted animals.

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

(4) TASK FORCE.—The term ''Task Force'' means the Interagency Task Force on Epizootic Hemorrhagic Disease established by section 4(a).

SEC. 3. CHRONIC WASTING DISEASE SAMPLING GUIDELINES AND TESTING PROTOCOL.

(a) SAMPLING GUIDELINES.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue guidelines for the collection of animal tissue by Federal, State, tribal, and local agencies for testing for chronic wasting disease.

(2) REQUIREMENTS.—Guidelines issued under paragraph (1) shall—

(A) include procedures for the stabilization of tissue samples for transport to a laboratory for assessment; and

(B) be updated as the Secretary determines to be appropriate.

(b) TESTING PROTOCOL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue a protocol to be used in the laboratory assessment of samples of animal tissue that may be contaminated with chronic wasting disease.

(c) LABORATORY CERTIFICATION AND INSPECTION PROGRAM.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall establish a program for the certification and inspection of Federal and non-Federal laboratories (including private laboratories) under which the Secretary shall authorize laboratories certified under the program to conduct tests for chronic wasting disease.

(2) VERIFICATION.—In carrying out the program established under paragraph (1), the Secretary may require that the results of any tests conducted by private laboratories shall be verified by Federal laboratories.

(d) DEVELOPMENT OF NEW TESTS.—Not later than 45 days after the date of enactment of this Act, the Secretary shall accelerate research into—

(1) the development of animal tests for chronic wasting disease, including—

(A) tests for live animals; and

(B) field diagnostic tests; and

(2) the development of testing protocols that reduce laboratory test processing time.

SEC. 4. INTERAGENCY TASK FORCE ON EPIZOOTIC HEMORRHAGIC DISEASE.

(a) IN GENERAL.—There is established a Federal interagency task force to be known as the ''Interagency Task Force on Epizootic Hemorrhagic Disease'' to coordinate activities to prevent the outbreak of epizootic hemorrhagic disease and related diseases in the United States.

(b) MEMBERSHIP.—The Task Force shall be composed of—

(1) the Secretary, who shall serve as the chairperson of the Task Force;

(2) the Secretary of the Interior;

(3) the Secretary of Commerce;

(4) the Secretary of Health and Human Services;

(5) the Secretary of the Treasury;

(6) the Commissioner of Food and Drugs;

(7) the Director of the National Institutes of Health;

(8) the Director of the Centers for Disease Control and Prevention;

(9) the Commissioner of Customs; and

(10) the heads of any other Federal agencies that the President determines to be appropriate.

(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the Task Force shall submit to Congress a report that—

(1) describes any activities that are being carried out, or that will be carried out, to prevent—

(A) the outbreak of epizootic hemorrhagic disease and related diseases in the United States; and

(B) the spread or transmission of epizootic hemorrhagic disease and related diseases to dairy cattle or other livestock; and

(2) includes recommendations for—

(A) legislation that should be enacted or regulations that should be promulgated to prevent the outbreak of epizootic hemorrhagic disease and related diseases in the United States; and

(B) coordination of the surveillance of and diagnostic testing for epizootic hemorrhagic disease, chronic wasting disease, and related diseases.

SEC. 5. FUNDING.

To carry out this Act, the Secretary may use funds made available to the Secretary for administrative purposes.

By Mr. KOHL (for himself, Mr. REID, Mr. ROCKEFELLER, Mr. KERRY, Mr. BINGAMAN, Mr. GRAHAM, Mr. MILLER, Mr. BREAUX, Mr. NELSON of Florida, Ms. LANDRIEU, and Mrs. LINCOLN):

S. 3091. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to reintroduce the Patient Abuse Prevention Act, which will help protect patients in long-term care from abuse and neglect by those who are supposed to care for them. This legislation will establish a National Registry of abusive long-term care workers and require criminal background checks for potential employees. The changes we are making today are technical in nature and are designed to ensure that the background check system runs as smoothly and efficiently as possible.

There is absolutely no excuse for abuse or neglect of the elderly and disabled at the hands of those who are supposed to care for them. Our parents and grandparents made our country what it is today, and they deserve to live with dignity and the highest quality care.

Unfortunately, this is not always the case. We know that the majority of caregivers are dedicated, professional, and do their best under difficult circumstances. But it only takes a few abusive staff to case a dark shadow over what should be a healing environment.

Current State and national safeguards are inadequate to screen out abusive workers. All States are required to maintain registries of abusive nurse aides. But nurse aides are not the only workers involved in abuse, and other workers are not tracked at all. Even worse, there is no system to coordinate information about abusive nurse aides between States. A known abuser in Iowa would have little trouble moving to Wisconsin and continuing to work with patients there.

In addition, there is no Federal requirement that long-term care facilities conduct criminal background checks on prospective employees. People with violent criminal backgrounds, people who have already been convicted of murder, rape, and assault, could easily get a job in a nursing home or other health care setting without their past ever being discovered.

Our legislation will go a long way toward solving this problem. First, it will create a National Registry of abusive long-term care employees. States will be required to submit information from their current State registries to the National Registry. Facilities will be required to check the National Registry before hiring a prospective worker. Any worker with a substantiated finding of patient abuse will be prohibited from working in long-term care.

Second, the bill provides a second line of defense to protect patients from violent criminals. If the National Registry does not contain information about a prospective worker, the facility is then required to initiate a FBI background check. Any conviction for patient abuse or a relevant violent crime would bar that applicant from working with patients.

A disturbing number of cases have been reported where workers with criminal backgrounds have been cleared to work in direct patient care, and have subsequently abused patients in their care. In 1997, the Milwaukee Journal-Sentinel ran a series of articles describing this problem. In 1998, at my request, the Senate Special Committee on Aging held a hearing that focused on how easy it is for known abusers to find work in long-term care and continue to prey on patients. At that hearing, the HHS Inspector General presented a report which found that, in the two States they studied, between 5–10 percent of employees currently working in nursing homes had serious criminal convictions in their past. They also found that among aides who had abused patients, 15–20 percent of them had at least one conviction in their past.

In 1998, I offered an amendment which became law that allowed long-term care providers to voluntarily use the FBI system for background checks. So far, 7 percent of those checks have come back with criminal convictions, including rape and kidnapping.

And on July 30, 2001, the House Government Reform Committee's Special Investigations Division of the Minority staff issued a report which found that in the past two years, over 30 percent of nursing homes in the U.S. were cited for a physical, sexual, or verbal abuse violation that had the potential to harm residents. Even more striking, the report found that nearly 10 percent of nursing homes had violations that caused actual harm to residents.

Clearly, this is a critical tool that long-term care providers should have, they don't want abusive caregivers working for them any more than families do. I am pleased that the nursing home industry has worked with me over the years to refine this legislation, and I greatly appreciate their support of the bill with the changes we are incorporating today. This bill reflects their input and will help ensure a smooth transition to an efficient, accurate background check system. This is a common-sense, cost-effective step we can and should take to protect patients by helping long-term care providers thoroughly screen potential caregivers.

I realize that this legislation will not solve all instances of abuse. We still need to do more to stop abuse from occurring in the first place. But this bill will ensure that those who have already abused an elderly or disabled patient, and those who have committed violent crimes against people in the past, are kept away from vulnerable patients.

I want to repeat that I strongly believe that most long-term care providers and their staff work hard to deliver the highest quality care. However, it is imperative that Congress act immediately to get rid of those that don't.

This bill is the product of collaboration and input from the health care industry, patient and employee advocates, who all have the same goal I do: protecting patients in long-term care. I look forward to continuing to work with my colleagues, the Administration, and the health care industry in this effort. Our Nation's seniors and disabled deserve nothing less than our full attention.

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. 3091

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 ''Patient Abuse Prevention Act''.

SEC. 2. ESTABLISHMENT OF PROGRAM TO PREVENT ABUSE OF NURSING FACILITY RESIDENTS.

(a) SCREENING OF SKILLED NURSING FACILITY AND NURSING FACILITY EMPLOYEE APPLICANTS.—

(1) MEDICARE PROGRAM.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following:

''(8) SCREENING OF SKILLED NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a skilled nursing facility worker, a skilled nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person to the facility a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request through the appropriate State agency that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(6); and

''(II) submit to such State agency the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A skilled nursing facility may not knowingly employ any skilled nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a skilled nursing facility may provide for a provisional period of employment for a skilled nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the covered individual during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A skilled nursing facility shall report to the State any instance in which the facility determines that a skilled nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A skilled nursing facility that obtains information about a skilled nursing facility worker pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant provided by the State pursuant to subsection (e)(6) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A skilled nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a skilled nursing facility that—

''(I) knowingly continues to employ a skilled nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a skilled nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a skilled nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) SKILLED NURSING FACILITY WORKER.—The term 'skilled nursing facility worker' means any individual (other than a volunteer) that has access to a patient of a skilled nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(2) MEDICAID PROGRAM.—Section 1919(b) of the Social Security Act (42 U.S.C. 1396r(b)) is amended by adding at the end the following new paragraph:

''(8) SCREENING OF NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a nursing facility worker, a nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person to the facility a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request through the appropriate State agency that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(8); and

''(II) submit to such State agency the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A nursing facility may not knowingly employ any nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a nursing facility may provide for a provisional period of employment for a nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the worker during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A nursing facility shall report to the State any instance in which the facility determines that a nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A nursing facility that obtains information about a nursing facility worker pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant

provided by the State pursuant to subsection (e)(8) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a nursing facility that—

''(I) knowingly continues to employ a nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) NURSING FACILITY WORKER.—The term 'nursing facility worker' means any individual (other than a volunteer) that has access to a patient of a nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(3) FEDERAL RESPONSIBILITIES.—

(A) DEVELOPMENT OF STANDARD FEDERAL AND STATE BACKGROUND CHECK FORM.—The Secretary of Health and Human Services, in consultation with the Attorney General and representatives of appropriate State agencies, shall develop a model form that an applicant for employment at a nursing facility may complete and Federal and State agencies may use to conduct the criminal background checks required under sections 1819(b)(8) and 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)) (as added by this section).

(B) PERIODIC EVALUATION.—The Secretary of Health and Human Services, in consultation with the Attorney General, periodically shall evaluate the background check system imposed under sections 1819(b)(8) and 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)) (as added by this section) and shall implement changes, as necessary, based on available technology, to make the background check system more efficient and able to provide a more immediate response to long-term care providers using the system.

(4) NO PREEMPTION OF STRICTER STATE LAWS.—Nothing in section 1819(b)(8) or 1919(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b)(8), 1396r(b)(8)) (as so added) shall be construed to supersede any provision of State law that—

(A) specifies a relevant crime for purposes of prohibiting the employment of an individual at a long-term care facility (as defined in section 1128E(g)(6) of the Social Security Act (as added by section 3(f) of this Act) that is not included in the list of such crimes specified in such sections or in regulations promulgated by the Secretary of Health and Human Services to carry out such sections; or

(B) requires a long-term care facility (as so defined) to conduct a background check prior to employing an individual in an employment position that is not included in the positions for which a background check is required under such sections.

(5) TECHNICAL AMENDMENTS.—Effective as if included in the enactment of section 941 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–585), as enacted into law by section 1(a)(6) of Public Law 106–554, sections 1819(b) and 1919(b) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)), as amended by such section 941 (as so enacted into law) are each amended by redesignating the paragraph (8) added by such section as paragraph (9).

(b) FEDERAL AND STATE REQUIREMENTS CONCERNING BACKGROUND CHECKS.—

(1) MEDICARE.—Section 1819(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is amended by adding at the end the following:

''(6) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON SKILLED NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a skilled nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall immediately submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO SKILLED NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) immediately report to the skilled nursing facility in writing the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation until expended.

''(II) STATE.—A State may charge a skilled nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(9), including regulations regarding the security confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(2) MEDICAID.—Section 1919(e) of the Social Security Act (42 U.S.C. 1396r(e)) is amended by adding at the end the following:

''(8) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State

records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall immediately submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) immediately report to the nursing facility in writing the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation, until expended.

''(II) STATE.—A State may charge a nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(8), including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(c) APPLICATION TO OTHER ENTITIES PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES.—

(1) MEDICARE.—Part D of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by adding at the end the following:

''APPLICATION OF SKILLED NURSING FACILITY PREVENTIVE ABUSE PROVISIONS TO ANY PROVIDER OF SERVICES OR OTHER ENTITY PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES

''SEC. 1897. (a) IN GENERAL.—The requirements of subsections (b)(8) and (e)(6) of section 1819 shall apply to any provider of services or any other entity that is eligible to be paid under this title for providing home health services, hospice care (including routine home care and other services included in hospice care under this title), or long-term care services to an individual entitled to benefits under part A or enrolled under part B, including an individual provided with a Medicare+Choice plan offered by a Medicare+Choice organization under part C (in this section referred to as a 'medicare beneficiary').

''(b) SUPERVISION OF PROVISIONAL EMPLOYEES.—

''(1) IN GENERAL.—With respect to an entity that provides home health services, such entity shall be considered to have satisfied the requirements of section 1819(b)(8)(B)(ii) or 1919(b)(8)(B)(ii) if the entity meets such requirements for supervision of provisional employees of the entity as the Secretary shall, by regulation, specify in accordance with paragraph (2).

''(2) REQUIREMENTS.—The regulations required under paragraph (1) shall provide the following:

''(A) Supervision of a provisional employee shall consist of ongoing, good faith, verifiable efforts by the supervisor of the provisional employee to conduct monitoring and oversight activities to ensure the safety of a medicare beneficiary.

''(B) For purposes of subparagraph (A), monitoring and oversight activities may include (but are not limited to) the following:

''(i) Follow-up telephone calls to the medicare beneficiary.

''(ii) Unannounced visits to the medicare beneficiary's home while the provisional employee is serving the medicare beneficiary.

''(iii) To the extent practicable, limiting the provisional employee's duties to serving only those medicare beneficiaries in a home or setting where another family member or resident of the home or setting of the medicare beneficiary is present.''.

(2) MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in paragraph (64), by striking ''and'' at the end;

(B) in paragraph (65), by striking the period and inserting ''; and''; and

(C) by inserting after paragraph (65) the following:

''(66) provide that any entity that is eligible to be paid under the State plan for providing home health services, hospice care (including routine home care and other services included in hospice care under title XVIII), or long-term care services for which medical assistance is available under the State plan to individuals requiring long-term care complies with the requirements of subsections (b)(8) and (e)(8) of section 1919 and section 1897(b) (in the same manner as such section applies to a medicare beneficiary).''.

(3) EXPANSION OF STATE NURSE AIDE REGISTRY.—

(A) MEDICARE.—Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (i) all individuals''; and

(cc) by inserting before the period the following: '', (ii) all other skilled nursing facility employees with respect to whom the State has made a finding described in subparagraph (B), and (iii) any employee of any provider of services or any other entity that is eligible to be paid under this title for providing home health services, hospice care (including routine home care and other services included in hospice care under this title), or long-term care services and with respect to whom the entity has reported to the State a finding of patient neglect or abuse or a misappropriation of patient property''; and

(III) in subparagraph (C), by striking ''a nurse aide'' and inserting ''an individual''; and

(ii) in subsection (g)(1)—

(I) by striking the first sentence of subparagraph (C) and inserting the following: ''The State shall provide, through the agency responsible for surveys and certification of skilled nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a skilled nursing facility employee of a resident in a skilled nursing facility, by another individual used by the facility in providing services to such a resident, or by an individual described in subsection (e)(2)(A)(iii).''; and

(II) in the fourth sentence of subparagraph (C), by inserting ''or described in subsection (e)(2)(A)(iii)'' after ''used by the facility''; and

(III) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE''; and

(bb) in clause (i), in the matter preceding subclause (I), by striking ''a nurse aide'' and inserting ''an individual''; and

(cc) in clause (i)(I), by striking ''nurse aide'' and inserting ''individual''.

(B) MEDICAID.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (i) all individuals''; and

(cc) by inserting before the period the following: '', (ii) all other nursing facility employees with respect to whom the State has made a finding described in subparagraph (B), and (iii) any employee of an entity that is eligible to be paid under the State plan for providing home health services, hospice care (including routine home care and other services included in hospice care under title

XVIII), or long-term care services and with respect to whom the entity has reported to the State a finding of patient neglect or abuse or a misappropriation of patient property''; and

(III) in subparagraph (C), by striking ''a nurse aide'' and inserting ''an individual''; and

(ii) in subsection (g)(1)—

(I) by striking the first sentence of subparagraph (C) and inserting the following: ''The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a nursing facility employee of a resident in a nursing facility, by another individual used by the facility in providing services to such a resident, or by an individual described in subsection (e)(2)(A)(iii).''; and

(II) in the fourth sentence of subparagraph (C), by inserting ''or described in subsection (e)(2)(A)(iii)'' after ''used by the facility''; and

(III) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE''; and

(bb) in clause (i), in the matter preceding subclause (I), by striking ''a nurse aide'' and inserting ''an individual''; and

(cc) in clause (i)(I), by striking ''nurse aide'' and inserting ''individual''.

(d) REIMBURSEMENT OF COSTS FOR BACKGROUND CHECKS.—The Secretary of Health and Human Services shall reimburse nursing facilities, skilled nursing facilities, and other entities for costs incurred by the facilities and entities in order to comply with the requirements imposed under sections 1819(b)(8) and 1919(b)(8) of such Act (42 U.S.C. 1395i–3(b)(8), 1396r(b)(8)), as added by this section.

SEC. 3. INCLUSION OF ABUSIVE WORKERS IN THE DATABASE ESTABLISHED AS PART OF NATIONAL HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) INCLUSION OF ABUSIVE ACTS WITHIN A LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g)(1)(A) of the Social Security Act (42 U.S.C. 1320a–7e(g)(1)(A)) is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv), the following:

''(v) A finding of abuse or neglect of a patient or a resident of a long-term care facility, or misappropriation of such a patient's or resident's property.''.

(b) COVERAGE OF LONG-TERM CARE FACILITY OR PROVIDER EMPLOYEES.—Section 1128E(g)(2) of the Social Security Act (42 U.S.C. 1320a–7e(g)(2)) is amended by inserting '', and includes any individual of a long-term care facility or provider (other than any volunteer) that has access to a patient or resident of such a facility under an employment or other contract, or both, with the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, providing services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, individuals who provide home care, and personal care workers and attendants)'' before the period.

(c) REPORTING BY LONG-TERM CARE FACILITIES OR PROVIDERS.—

(1) IN GENERAL.—Section 1128E(b)(1) of the Social Security Act (42 U.S.C. 1320a–7e(b)(1)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(2) CORRECTION OF INFORMATION.—Section 1128E(c)(2) of the Social Security Act (42 U.S.C. 1320a–7e(c)(2)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(d) ACCESS TO REPORTED INFORMATION.—Section 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended by striking ''and health plans'' and inserting '', health plans, and long-term care facilities or providers''.

(e) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—Section 1128E(d) of the Social Security Act (42 U.S.C. 1320a–7e(d)) is amended by adding at the end the following:

''(3) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—A long-term care facility or provider shall check the database maintained under this section prior to hiring under an employment or other contract, or both, any individual as an employee of such a facility or provider who will have access to a patient or resident of the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, that will provide services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, individuals who provide home care, and personal care workers and attendants).''.

(f) DEFINITION OF LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g) of the Social Security Act (42 U.S.C. 1320a–7e(g)) is amended by adding at the end the following:

''(6) LONG-TERM CARE FACILITY OR PROVIDER.—The term 'long-term care facility or provider' means a skilled nursing facility (as defined in section 1819(a)), a nursing facility (as defined in section 1919(a)), a home health agency, a provider of hospice care (as defined in section 1861(dd)(1)), a long-term care hospital (as described in section 1886(d)(1)(B)(iv)), an intermediate care facility for the mentally retarded (as defined in section 1905(d)), or any other facility or entity that provides, or is a provider of, long-term care services, home health services, or hospice care (including routine home care and other services included in hospice care under title XVIII), and receives payment for such services under the medicare program under title XVIII or the medicaid program under title XIX.''.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the amendments made by this section, $10,200,000 for fiscal year 2003.

SEC. 4. PREVENTION AND TRAINING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration program to provide grants to develop information on best practices in patient abuse prevention training (including behavior training and interventions) for managers and staff of hospital and health care facilities.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall be a public or private nonprofit entity and prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received under a grant under this section shall be used to—

(1) examine ways to improve collaboration between State health care survey and provider certification agencies, long-term care ombudsman programs, the long-term care industry, and local community members;

(2) examine patient care issues relating to regulatory oversight, community involvement, and facility staffing and management with a focus on staff training, staff stress management, and staff supervision;

(3) examine the use of patient abuse prevention training programs by long-term care entities, including the training program developed by the National Association of Attorneys General, and the extent to which such programs are used; and

(4) identify and disseminate best practices for preventing and reducing patient abuse.

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

SEC. 5. SFFECTIVE DATE.

This Act and the amendments made by the Act shall take effect on the date that is 6 months after the effective date of final regulations promulgated to carry out this Act and such amendments.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 3092. A bill to amend title XXI of the Social Security Act to extend the availability of allotments to States for fiscal years 1998 through 2000, and for other purposes; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today to introduce the Children's Health Protection and Eligibility Act. I am delighted to be joined on this bill with my good friend, Senator PATTY MURRAY. Senator MURRAY has been a champion for children's health issues throughout her career in the Senate. This important legislation addresses the allocation of budgeted but unspent SCHIP funds that are currently out of reach of states and, under current law, are scheduled to be returned to the federal treasury. This legislation also helps those States with the highest unemployment rates use more of their SCHIP dollars to provide health insurance coverage for low-income children.

Washington State is in the middle of an economic crisis resulting from a downturn in both our aviation and high-tech sectors. With the jobless rate at 7.2 percent, we have one of the highest unemployment rates in the country, 202,000 Washingtonians are unable to find work. And over the last 12 months, our State has lost 50,000 jobs, and 60 percent of those are in the high-paying manufacturing sector.

In 2000, before the recession began, there were 780,000 uninsured people in Washington state, including 155,000 children. That number has surely grown as the economy has worsened and our population has risen. In fact, just last week the Census Bureau reported that the number of uninsured increased for the first time in two years. Sadly, there are 41.2 million people nationwide without health insurance, 8.5 million of whom are children.

The increasing number of uninsured isn't the only problem facing the health care system. In September, the Kaiser Family Foundation reported the largest increase in health insurance premium costs since 1990, while the Center for Studying Health System Change found that health care spending has returned to double-digit growth for the first time since that year.

The lack of health insurance has very real consequences. We know that the uninsured are four times as likely as the insured to delay or forego needed care, and uninsured children are six times as likely as insured children to go without needed medical care. Health insurance matters for kids, and coverage today defrays costs tomorrow.

Five years ago, Congress created a new $40 billion state grant program to provide health insurance to low-income, uninsured children who live in families that earn too much to qualify for Medicaid but not enough to afford private insurance. In most states, the State Children's Health Insurance Program, SCHIP, has been extremely successful. Nearly one million children

gained coverage each year through SCHIP and, by December 2001, 3.5 million children were enrolled in the program.

Unfortunately, however, not all States have been able to participate in this success, and perversely, these are the states that had taken bold initiatives by expanding their Medicaid programs to cover low-income children at higher levels of poverty. Sadly, the recession and high unemployment means that the health insurance coverage we do have for children, pregnant women, and low-income individuals is in jeopardy due to State budget crises.

Washington State has been a leader in providing health insurance to our constituents. We have long provided optional coverage to Medicaid populations and began covering children up to 200 percent of poverty in 1994, three years before Congress passed SCHIP

When SCHIP was enacted in 1997, most States were prohibited from using the new funding for already covered populations. This flaw made it difficult for Washington to access the money and essentially penalized the few States that had led the nation on expanding coverage for kids. This means that my State only receives the enhanced SCHIP matching dollars for covering kids between 200 and 250 percent of the Federal poverty level. Washington has been able to use less than four percent of the funding the Federal Government gave us for SCHIP.

Today, Washington has the highest unemployment in the country, an enormous budget deficit, and may need to cut as many as 150,000 kids from the Medicaid roles. Because it is penalized by SCHIP rules and cannot use funds like other States, Washington State is sending $95 million back to the Federal treasury or to other States. This defies common sense, and I do not believe that innovative States should be penalized for having expanded coverage to children before the enactment of SCHIP.

This is why we are introducing the Children's Health Protection and Eligibility Act. This bill will give States the ability to use SCHIP funds more efficiently to prevent the loss of health care coverage for children. This bill targets expiring funds to States that otherwise may have to cut health care coverage for kids. States that have made a commitment to insuring children could use expiring SCHIP funds and a portion of current SCHIP funds on a short-term basis to maintain access to health care coverage for all low-income children in the State. The bill also ensures that all states that have demonstrated a commitment to providing health care coverage to children can access SCHIP funds in the same manner to support children's health care coverage.

First, as my colleagues know, 1998 and 1999 State allotments ''expired'' at the end of fiscal year 2002 and are scheduled to be returned to the federal treasury. Our bill allows states to keep their remaining 1998 and 1999 funds, and use these funds for the for the purposes of this legislation.

Second, unused SCHIP dollars from the fiscal year 2000 allotment are due to be redistributed at the end of fiscal year 2002 among those States that have spent all of their SCHIP funds. Our bill would allow the retention and redistribution these funds as was done two years ago through the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act, P.L. 106–554. However, under our bill, States that had an unemployment rate higher than six percent for two consecutive months in 2002 would be eligible to keep all of their unspent 2000 SCHIP allotment.

Third, at State option, for certain Medicaid expenditures, qualifying States would receive the difference between their Medicaid federal matching assistance percentage, or FMAP, and their enhanced SCHIP matching rate. This temporary measure would be paid out of a State's current SCHIP allotment to ensure children's health care coverage does not erode as states face enormous budget deficits. States would be able to use any remaining funds from fiscal years 1998, 1999, and 2000 SCHIP allotments, plus ten percent of fiscal 2001, 2002, and 2003 allotments.

Finally, our bill allows States that have expanded coverage to the highest eligibility levels allowed under SCHIP, and meet certain requirements, to receive the enhanced SCHIP match rate for any kids that had previously been covered above the mandatory level.

Children are the leaders of tomorrow; they are the very future of our great nation. We owe them nothing less than the sum of our energies, our talents, and our efforts in providing them a foundation on which to build happy, healthy and productive lives. During this tough economic time, it is more important than ever to maintain existing health care coverage for children in order to hold down health care costs and to keep children healthy. I urge my colleagues to join us in support of this bill.

By Mr. WYDEN (for himself and Mr. KYL):

S. 3093. A bill to develop and deploy technologies to defeat Internet jamming and censorship; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, over the past seven years, Congressman CHRIS COX and I have teamed up several times on legislation affecting the Internet. The Global Internet Freedom Act that I will introduce today could be called ''Cox-Wyden V,'' because this is our fifth collaboration. I am pleased to be joined by Senator KYL in introducing this bill in the Senate.

This legislation aims to foster the development and deployment of technologies to defeat state-sponsored Internet jamming and censorship, and in turn, to help unleash the potential of the Internet to promote the causes of freedom and democracy worldwide.

This is a time when Americans are acutely focused on security threats emanating from sources beyond U.S. borders. The terrorist attacks of September 11 made plain that ignorance, extremism, and hate abroad can have terrible consequences not just in other countries, but right here at home. And the daily drumbeat of debate over Iraq emphasizes that oppressive foreign regimes can pose serious hazards. The world is truly getting smaller.

In the field of information technology, Americans have rightly responded with a renewed emphasis on cybersecurity. The interlinked computer networks that make up the Internet, and on which American's critical infrastructure increasingly relies, must be secured against would-be cyberterrorists. This is a matter of top importance, and I have sponsored legislation, as Chairman of the Science and Technology Subcommittee, to promote research and innovation in this area. It is my hope that the Cybersecurity Research and Development Act will be signed by the President in the coming weeks.

But it is important to remember that the international nature of the Internet does not just create new threats. It also presents tremendous new opportunities.

Openness, transparency, and the unfettered flow of information have always been the allies of freedom and democracy. Over time, nothing erodes oppression and intolerance like the widespread dissemination of knowledge and ideas. And technology has often played a key role in this process. From the printing press to radio, technological advances have revolutionized the spread information and ideas and opened up new horizons for people everywhere. Not surprisingly, the foes of freedom, understanding the threat these technologies pose, have often responded with such steps as censoring the press, jamming radio broadcasts, and putting media outlets under state control.

The Internet promises to revolutionize the spread of information yet again. Unlike its predecessor technologies, it offers a truly worldwide network that makes geographic distance irrelevant. It enables any person connected to it to exchange ideas quickly and easily with people and organizations on the other side of the globe. The quantity and variety of information it permits access to are virtually unlimited.

So once again, governments that fear freedom are trying to rein in the technology's potential. They block access to websites. They censor websites and email. They interrupt Internet search engines when users try explore the ''wrong'' topics. They closely monitor citizens' Internet usage and make it known that those who visit the ''wrong'' websites will be punished. Or

they prevent Internet access altogether, by prohibiting ownership of personal computers.

For a confirmed example of this, I would simply call attention to the inaugural report of the Congressional-Executive Commission on China, issued just last week, October 2. This report, the product of a bipartisan commission with members from the Senate, the House of Representatives, and the Administration, finds that ''over the last 18 months, the Chinese government has issued an extensive and still growing series of regulations restricting Internet content and placing monitoring requirements on industry.'' It goes on to cite accounts of the Chinese government using high-tech software and hardware to ''block, filter, and hack websites and e-mail.'' Offshore dissident websites, foreign news websites, search engines, and Voice of America's weekly e-mail to China are all subject to being blocked. Internet users attempting to access foreign websites often find themselves redirected to Chinese government-approved websites.

Other countries, from Cuba to Burma to Tunisia to Vietnam, engage in similar activity.

There are technologies that can help defeat the firewalls and filters that these governments choose to erect. Proxy servers, intermediaries, ''mirrors,'' and encryption may all have useful applications in this regard. But the U.S. Government has done little to promote technological approaches. This country devotes considerable resources to combat the jamming of Voice of America broadcasting abroad. But to date, it has budgeted only about $1 million for technologies to counter Internet jamming and censorship.

This country can and should do better. The Internet is too important a communications medium, and its potential as a force for freedom and democracy is too great, to make a second-rate effort in this area.

That is why Senator KYL and I are introducing the Global Internet Freedom Act today. It is time for the U.S. Government to make a serious commitment to support technology that can help keep the Internet open, available, and free of political censorship for people all over the world.

This legislation would establish an Office of Global Internet Freedom, with the express mission of promoting technology to combat state-sponsored Internet jamming. The office would be based in the Department of Commerce's National Telecommunications and Information Administration, NTIA, to take advantage of NTIA's extensive expertise in international telecommunications and Internet issues. Location within the Department of Commerce will also help ensure close ties with American technology companies, whose active involvement will be essential for any technology-based effort to succeed. Cooperation with the International Broadcasting Bureau will be indispensable as well, and is required in the legislation.

Funding for the new office would be authorized at $30 million for each of the next two fiscal years. The office would make an annual report to Congress on its activities, and on the extent of state-sponsored Internet blocking in different countries around the world.

Finally, the bill would express the sense of Congress that the United States should denounce the practice of state-sponsored blocking of access to the Internet, should submit a resolution on the topic to the United Nations Human Rights Convention, and should deploy technologies to address the problem as soon as practicable.

As I mentioned at the outset, Representatives CHRIS COX and TOM LANTOS have already introduced companion legislation in the House, and I strongly applaud them for taking the lead on this issue. Here in the Senate, I urge my colleagues to join Senator KYL and myself in this important, bipartisan effort.

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. 3093

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 ''Global Internet Freedom Act''.

SEC. 2 FINDINGS.

The Congress makes the following findings:

(1) Freedom of speech, freedom of the press, and freedom of association are fundamental characteristics of a free society. The first amendment to the Constitution of the United States guarantees that ''Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble.'' These constitutional provisions guarantee the rights of Americans to communicate and associate with one another without restriction, including unfettered communication and association via the Internet. Article 19 of the United Nation's Universal Declaration of Human Rights explicitly guarantees the freedom to ''receive and impart information and ideas through any media and regardless of frontiers''.

(2) All people have the right to communicate freely with others, and to have unrestricted access to news and information, on the Internet.

(3) With nearly 10 percent of the world's population now online, and more gaining access each day, the Internet stands to become the most powerful engine for democratization and the free exchange of ideas ever invented.

(4) Unrestricted access to news and information on the Internet is a check on repressive rule by authoritarian regimes around the world.

(5) The governments of Burma, Cuba, Laos, North Korea, the People's Republic of China, Saudi Arabia, Syria, and Vietnam, among others, are taking active measures to keep their citizens from freely accessing the Internet and obtaining international political, religious, and economic news and information.

(6) Intergovernmental, nongovernmental, and media organizations have reported the widespread and increasing pattern by authoritarian governments to block, jam, and monitor Internet access and content, using technologies such as firewalls, filters, and ''black boxes''. Such jamming and monitoring of individual activity on the Internet includes surveillance of e-mail messages, message boards, and the use of particular words; ''stealth blocking'' individuals from visiting websites; the development of ''black lists'' of users that seek to visit these websites; and the denial of access to the Internet.

(7) The Voice of America and Radio Free Asia, as well as hundreds of news sources with an Internet presence, are routinely being jammed by repressive governments.

(8) Since the 1940s, the United States has deployed anti-jamming technologies to make Voice of America and other United States Government sponsored broadcasting available to people in nations with governments that seek to block news and information.

(9) The United States Government has thus far commenced only modest steps to fund and deploy technologies to defeat Internet censorship. To date, the Voice of America and Radio Free Asia have committed a total of $1,000,000 for technology to counter Internet jamming by the People's Republic of China. This technology, which has been successful in attracting 100,000 electronic hits per day from the People's Republic of China, has been relied upon by Voice of America and Radio Free Asia to ensure access to their programming by citizens of the People's Republic of China, but United States Government financial support for the technology has lapsed. In most other countries there is no meaningful United States support for Internet freedom.

(10) The success of United States policy in support of freedom of speech, press, and association requires new initiatives and technologies to defeat totalitarian and authoritarian controls on news and information over the Internet.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to adopt an effective and robust global Internet freedom policy;

(2) to establish an office within the National Telecommunications and Information Administration with the sole mission of promoting technological means of countering Internet jamming and blocking by repressive regimes;

(3) to expedite the development and deployment of technology to protect Internet freedom around the world;

(4) to authorize the commitment of a substantial portion of United States Government resources to the continued development and implementation of technologies to counter the jamming of the Internet;

(5) to utilize the expertise of the private sector in the development and implementation of such technologies, so that the many current technologies used commercially for securing business transactions and providing virtual meeting space can be used to promote democracy and freedom; and

(6 to bring to bear the pressure of the free world on repressive governments guilty of Internet censorship and the intimidation and persecution of their citizens who use the Internet.

SEC. 4. DEVELOPMENT AND DEPLOYMENT OF TECHNOLOGIES TO DEFEAT INTERNET JAMMING AND CENSORSHIP.

(a) ESTABLISHMENT OF OFFICE OF GLOBAL INTERNET FREEDOM.—There is established in the National Telecommunications and Information Administration the Office of Global Internet Freedom (hereinafter in this Act referred to as the ''Office''). The Office shall be

headed by a Director who shall develop and implement, in consultation with the International Broadcasting Bureau, a comprehensive global strategy for promoting technology to combat state-sponsored and state-directed Internet jamming and persecution of those who use the Internet.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office $30,000,000 for each of the fiscal years 2003 and 2004.

(c) CORPORATION OF OTHER FEDERAL DEPARTMENTS AND AGENCIES.—Each department and agency of the United States Government shall cooperate fully with, and assist in the implementation of, the strategy developed by the Office and shall make such resources and information available to the Office as is necessary to the achievement of the purposes of this Act.

(d) REPORT TO CONGRESS.—On March 1 following the date of the enactment of this Act and annually thereafter, the Director of the Office shall submit to the Congress a report on the status of state interference with Internet use and of efforts by the United States to counter such interference. Each report shall list the countries that pursue policies of Internet censorship, blocking, and other abuses; provide information concerning the government agencies or quasi-governmental organizations that implement Internet censorship; and describe with the greatest particularity practicable the technological means by which such blocking and other abuses are accomplished. In the discretion of the Director, such report may be submitted in both a classified and nonclassified version.

(e) LIMITATION ON AUTHORITY.—Nothing in this Act shall be interpreted to authorize any action by the United States to interfere with foreign national censorship for the purpose of protecting minors from harm, preserving public morality, or assisting with legitimate law enforcement aims.

SEC. 5. SENSE OF CONGRESS.

It is the sense of the Congress that the United States should—

(1) publicly, prominently, and consistently denounce governments that restrict, censor, ban, and block access to information on the Internet;

(2) direct the United States Representative to the United Nations to submit a resolution at the next annual meeting of the United Nations Human Rights Commission condemning all governments that practice Internet censorship and deny freedom to access and share information; and

(3) deploy, at the earliest practicable date, technologies aimed at defeating state-directed Internet censorship and the persecution of those who use the Internet.

Mr. KYL. Mr. President, I rise today to introduce, with Senator WYDEN, the Global Internet Freedom Act.

The Internet is one of the most powerful tools to promote the exchange of ideas and to disseminate information. In that regard, it is a key component in our efforts to reach populations living under undemocratic governments that continue to restrict freedom of speech, the press, and association. Unfortunately, however, many authoritarian governments including the regimes in the People's Republic of China, Saudi Arabia, Syria, Vietnam, Cuba, and North Korea aggressively block and censor the Internet, often subjecting to torture and imprisonment those individuals who dare to resist the controls.

In Vietnam, for example, the Prime Minister issued a decree in August 2000 that prohibits individuals from using the Internet ''for the purpose of hostile actions against the country or to destabilize security, violate morality, or violate other laws and regulations.'' The Communist government owns and controls the sole Internet access provider, which is authorized to monitor the sites that subscribers use. It erects firewalls to block sites it deems politically or culturally inappropriate. And it is seeking additional authority to monitor some 4,000 Internet cafes in Vietnam, and hold responsible the owners of these cafes for customer use of the Internet.

The situation in Syria is no better. Like Vietnam, that country has only one government-run Internet service provider. The Government blocks access to Internet sites that contain information deemed politically sensitive including pro-Israel sites and also periodically blocks access to servers that provide free e-mail services. In 2000, the Syrian Government which monitors e-mail detained one individual for simply forwarding via e-mail a political cartoon.

The Chinese Government is one of the worst offenders. Beijing has passed sweeping regulations in the past 2 years prohibiting news and commentary on Internet sites in China that are not state-sanctioned. The Ministry of Information Industry regulates Internet access, and the Ministries of Public and State Security monitor its use. According to the State Department's most recent Country Reports on Human Rights Practices.

Despite the continued expansion of the Internet in the country, the Chinese government maintained its efforts to monitor and control content on the Internet. . . . The authorities block access to Web sites they find offensive. Authorities have at times blocked politically sensitive Web sites, including those of dissident groups and some major foreign news organizations, such as the VOA, the Washington Post, the New York Times, and the BBC.

The U.S.-China Security Review Commission noted in its recent report that China has even convinced American companies like Yahoo! to assist in its censorship efforts, and others, like America Online, to leave open the possibility of turning over names, e-mail addresses, or records of political dissidents if the Chinese Government demands them.

Those who attempt to circumvent Internet restrictions in China are often subject to harsh punishment. For example, Huang Qi, the operator of an Internet site that posted information about missing persons, including students who disappeared in the 1989 Tiananmen massacre, was tried secretly and found guilty of ''subverting state power.'' According to the State Department, Huang was bound hand and foot and beaten by police while they tried to force him to confess.

These are but a few examples of the incredible lengths that authoritarian governments will go to in order to preserve control over their populations and prevent change. Voice of America, Radio Free Asia, Amnesty International, and the National Endowment for Democracy—just to name a few—all utilize the Internet to try to provide news, spread democratic values, and promote human rights in these countries. But the obstacles they face are great.

The U.S. private sector is developing a number of techniques and technologies to combat Internet blocking. Unfortunately, however, the U.S. Government has contributed few resources to assist these efforts and to put the new techniques to use. For example, Voice of America and Radio Free Asia have budgeted only $1 million for technology to counter Chinese Government Internet jamming, and that funding has now expired.

This is why I am pleased to introduce the Global Internet Freedom Act. This bill will take an important step toward promoting Internet freedom throughout the world. Specifically, it establishes, within the Commerce Department's National Telecommunications and Information Administration, the Office of Global Internet Freedom. It authorizes $30 million per year in fiscal years 2003 and 2004 for this office, which would be responsible for developing and implementing a comprehensive global strategy to combat state-sponsored Internet jamming and persecution of Internet users. Additionally, the director of the office would be required to submit to Congress an annual report on U.S. efforts to counter state interference with Internet use.

Similar legislation has already been introduced in the House of Representatives by Congressmen COX and LANTOS.

I cannot stress enough the importance of the Internet in promoting the flow of democratic ideas. If the benefits of the Internet are able to reach more and more people around the globe, repressive governments will begin to be challenged by individuals who are freely exchanging views and getting uncensored news and information.

The United States should take full advantage of the opportunities inherent in worldwide access to the Internet, and should make clear to the international community that fostering Internet freedom is a top priority. Creation of an Office of Global Internet Freedom will enable us to do just that.

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

By Mr. DORGAN (for himself, Mr. ROBERTS, Mr. CONRAD, Mr. CRAPO, Mr. CRAIG, Mr. BURNS, Mr. JOHNSON, Mr. ALLARD, Mr. BROWNBACK, and Mr. CAMPBELL):

S. 3094. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the rates applicable to marketing assistance loans and loan deficiency payments for other oilseeds, dry peas, lentils, and small chickpeas; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DORGAN. Mr. President, today along with Senators ROBERTS, CONRAD, CRAPO, CRAIG, BURNS, JOHNSON, ALLARD, BROWNBACK, and CAMPBELL I am introducing legislation to clarify Congressional intent regarding minor oilseed and pulse crop loan rates in the Farm Security and Rural Investment Act, FSRIA, of 2002. This is a redraft of legislation introduced last July.

In June, the United States Department of Agriculture incorrectly interpreted the intent of the new farm bill when the Farm Service Agency arbitrarily announced a wide range of minor oilseed loan rates. For some minor oilseed crops, the loan rate increased substantially, while for others, the rates plunged. A few months later, in early September, the Farm Service Agency continued to err when it announced the loan rates for dry peas, lentils and small chickpeas that completely ignored the instructions laid down by the Statement of Managers that accompanied the conference report of the new farm bill.

Not once during the farm bill debate was there ever discussion of splitting apart minor oilseed loan rates. In fact, the minor oilseed industry and farmers alike anticipated a county-level increase in loan rates from $9.30 to 9.60/cwt. The announcement by the Farm Service Agency caught virtually everyone in the agriculture community by surprise.

This legislation is intended to correct this misinterpretation of the new farm bill, and to prevent what will certainly be extreme acreage shifts among these crops in the coming years should these rates be allowed to stand. These acreage shifts will destroy segments of the minor oilseed and pulse crop industry that have been painstakingly developed over a number of years.

For instance, already, users of the oil derived from oil sunflowers anticipate supply shortages next year and have indicated they may remove sunflower oil from their product mix. Conversely, incentives caused by the much higher confectionery sunflower loan rate could deluge USDA with massive loan forfeitures of low quality confectionery sunflowers if farmers simply grow for the loan rate rather than a quality crop that has a market.

The legislation amends the new farm bill by simply and redundantly listing each minor oilseed crop after the stated loan rate. The legislation reinstates the cramby and sesame seed loan rates that were eliminated by USDA. The legislation also puts into bill language the instructions that were spelled out in the Statement of Managers regarding a single loan rate for all sunflowers and the quality grades for the loan rates for dry peas, lentils and small chickpeas.

This legislation should not be needed. USDA could easily repeal the current announcement of minor oilseed and pulse crop loan rates in favor of rates consistent with this legislation and the new farm bill, as I and my colleagues have asked in recent meetings and letters on this issue.

I request 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. 3094

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

SECTION 1. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR OTHER OILSEEDS, DRY PEAS, LENTILS, AND SMALL CHICKPEAS.

(a) DEFINITION OF OTHER OILSEED.—Section 1001(9) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901(9)) is amended by inserting ''crambe, sesame seed,'' after ''mustard seed,''.

(b) LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.—Section 1202 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7932) is amended—

(1) in subsection (a), by striking paragraph (10) and inserting the following:

''(10) In the case of other oilseeds, $.0960 per pound for each of the following kinds of oilseeds:

''(A) Sunflower seed.
''(B) Rapeseed.
''(C) Canola.
''(D) Safflower.
''(E) Flaxseed.
''(F) Mustard seed.
''(G) Crambe.
''(H) Sesame seed.
''(I) Other oilseeds designated by the Secretary.'';

(2) in subsection (b), by striking paragraph (10) and inserting the following:

''(10) In the case of other oilseeds, $.0930 per pound for each of the following kinds of oilseeds:

''(A) Sunflower seed.
''(B) Rapeseed.
''(C) Canola.
''(D) Safflower.
''(E) Flaxseed.
''(F) Mustard seed.
''(G) Crambe.
''(H) Sesame seed.
''(I) Other oilseeds designated by the Secretary.'';

(3) by adding at the end the following:

''(c) SINGLE COUNTY LOAN RATE FOR OTHER OILSEEDS.—The Secretary shall establish a single loan rate in each county for each kind of other oilseeds described in subsections (a)(10) and (b)(10).

''(d) QUALITY GRADES FOR DRY PEAS, LENTILS, AND SMALL CHICKPEAS.—The loan rate for dry peas, lentils, and small chickpeas shall be based on—

''(1) in the case of dry peas, United States feed peas;

''(2) in the case of lentils, United States number 3 lentils; and

''(3) in the case of small chickpeas, United States number 3 small chickpeas that drop below a 20/64 screen.''.

(c) REPAYMENT OF LOANS.—Section 1204 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7934) is amended—

(1) in subsection (a), by striking ''and extra long staple cotton'' and inserting ''extra long staple cotton, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)'';

(2) by redesignating subsection (f) as subsection (h); and

(3) by inserting after subsection (e) the following:

''(f) REPAYMENT RATES FOR CONFECTIONERY AND OTHER KINDS OF SUNFLOWER SEEDS.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for confectionery and each other kind of sunflower seed (other than oil sunflower seed) at a rate that is the lesser of—

''(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

''(2) the repayment rate established for oil sunflower seed.

''(g) QUALITY GRADES FOR DRY PEAS, LENTILS, AND SMALL CHICKPEAS.—The loan repayment rate for dry peas, lentils, and small chickpeas shall be based on the quality grades for the applicable commodity specified in section 1202(d).''.

(d) EFFECTIVE DATE.—This section and the amendments made by this section take effect as if included in the provisions of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) to which this section and the amendments relate.

By Mr. DURBIN:

S. 3095. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket consultation and approval with respect to genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, today I am introducing legislation that would strengthen consumer confidence in the safety of genetically engineered foods and genetically engineered animals that may enter the food supply. This bill, known as the Genetically Engineered Foods Act, requires an FDA review of all genetically engineered foods, and requires an environmental review to be conducted as part of the safety review for genetically engineered animals. In addition, the Genetically Engineered Foods Act creates a transparent process that will better inform and involve the public as decisions are made regarding the safety of all genetically engineered foods and animals.

Make no mistake, our country has been blessed with one of the safest and most abundant food supplies in the world, but we can always do better. Genetically engineered foods have become a major part of the American food supply in recent years. Many of the foods we consume now contain genetically engineered ingredients such as corn and soy. These foods have been enhanced with important qualities that help farmers grow crops more efficiently. However, their development has raised important questions about the safety of these foods and the adequacy of government oversight.

Currently, genetically engineered foods are screened by the Federal Food and Drug Administration under a voluntary consultation program. The Genetically Engineered Foods Act will make this review program mandatory, and will strengthen government oversight in several important ways.

Mandatory Review: Producers of genetically engineered foods must receive approval from the FDA before introducing their products into interstate

commerce. The FDA will scientifically ensure that genetically engineered foods are just as safe as comparable food products before allowing them on the market.

Public Involvement: Scientific studies and other materials submitted to the FDA as part of the mandatory review of genetically engineered foods will be made available for public review and comment. Members of the public can submit any new information on genetically engineered foods not previously available to the FDA and request a new review of a particular genetically engineered food product even if that food is already on the market.

Testing: The FDA, in conjunction with other Federal agencies, will be given the authority to conduct scientifically-sound testing to determine whether genetically engineered foods are inappropriately entering the food supply.

Communication: The FDA and other Federal agencies will establish a registry of genetically engineered foods for easy access to information about those foods that have been cleared for market. The genetically engineered food review process will be fully transparent so that the public has access to all non-confidential information.

Environmental Review with respect to Animals: While genetically engineered foods such as corn and soy are already part of our food supply, genetically engineered animals will also soon be ready for market approval. These animals hold much promise for serving as an additional source of food for our nation. However, in the case of animals, we must ensure not only the safety of these products as they enter the food supply, but also the safety of these products as they come in contact with the environment.

The FDA has a mandatory review process in place that will be used to review the safety of genetically engineered animals before they enter the food supply. However, this bill will provide the FDA will additional oversight authorities to be used during the safety approval of genetically engineered animals.

Environmental issues have been identified as a major science-based concern associated with genetically engineered animals. Therefore, to obtain approval to market a genetically engineered animal, an environmental assessment must be conducted that analyzes the potential effects of the genetically engineered animal on the environment. A plan must also be in place to reduce or eliminate any negative effects. If the environmental assessment is not adequate, approval will not be granted.

Transparency: In order to gain the benefits that genetically engineered animals can offer as an additional source of food, public confidence must be maintained in the safety of the product. This bill will provide for public involvement in the approval process by providing information to consumers, as well as the opportunity to provide comments. Adding transparency will increase the public's understanding and confidence in the safety of these animals as they enter the food supply.

I urge my colleagues to join me in this effort to strengthen consumer confidence in the safety of genetically engineered foods and genetically engineered animals that may enter the food supply. The Genetically Engineered Foods Act can help provide the public with the added assurance that genetically engineered foods and animals are safe to produce and consume. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 3095

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 ''Genetically Engineered Foods Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) genetically engineered food is rapidly becoming an integral part of domestic and international food supplies;

(2) the potential positive effects of genetically engineered foods are enormous;

(3) the potential for both anticipated and unanticipated effects exists with genetic engineering of foods;

(4) genetically engineered food not approved for human consumption has, in the past, entered the human food supply;

(5) environmental issues have been identified as a major science-based concern associated with animal biotechnology;

(6) it is essential to maintain—

(A) public confidence in—

(i) the safety of the food supply; and

(ii) the ability of the Federal Government to exercise adequate oversight of genetically engineered foods; and

(B) the ability of agricultural producers and other food producers of the United States to market, domestically and internationally, foods that have been genetically engineered;

(7) public confidence can best be maintained through careful review and formal determination of the safety of genetically engineered foods, and monitoring of the positive and negative effects of genetically engineered foods as the foods become integrated into the food supply, through a review and monitoring process that—

(A) is scientifically sound, open, and transparent;

(B) fully involves the general public; and

(C) does not subject most genetically engineered foods to the lengthy food additive approval process; and

(8) because genetically engineered foods are developed worldwide and imported into the United States, it is imperative that imported genetically engineered food be subject to the same level of oversight as domestic genetically engineered food.

SEC. 3. DEFINITIONS.

(a) THIS ACT.—In this Act, the terms ''genetic engineering technique'', ''genetically engineered animal'', ''genetically engineered food'', ''interstate commerce'', ''producer'', ''safe'', and ''Secretary'' have the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by subsection (b)).

(b) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended—

(1) in subsection (v)—

(A) by striking ''(v) The term'' and inserting the following:

''(v) NEW ANIMAL DRUG.—

''(1) IN GENERAL.—The term'';

(B) by striking ''(1) the composition'' and inserting ''(A) the composition'';

(C) by striking ''(2) the composition'' and inserting ''(B) the composition''; and

(D) by adding at the end the following:

''(2) INCLUSION.—The term 'new animal drug' includes—

''(A) a genetic engineering technique intended to be used to produce an animal; and

''(B) a genetically engineered animal.''; and

(2) by adding at the end the following:

''(ll) GENETIC ENGINEERING TECHNIQUE.—The term 'genetic engineering technique' means the use of a transformation event to derive food from a plant or animal or to produce an animal.

''(mm) GENETICALLY ENGINEERED ANIMAL.—The term 'genetically engineered animal' means an animal that—

''(1) is intended to be used—

''(A) in the production of a food or dietary supplement; or

''(B) for any other purpose;

''(2)(A) is produced in the United States; or

''(B) is offered for import into the United States; and

''(3) is produced using a genetic engineering technique.

''(nn) GENETICALLY ENGINEERED FOOD.—

''(1) IN GENERAL.—The term 'genetically engineered food' means a food or dietary supplement, or a seed, microorganism, or ingredient intended to be used to produce a food or dietary supplement, that—

''(A)(i) is produced in the United States; or

''(ii) is offered for import into the United States; and

''(B) is produced using a genetic engineering technique.

''(2) INCLUSION.—The term 'genetically engineered food' includes a split use food.

''(3) EXCLUSION.—The term 'genetically engineered food' does not include a genetically engineered animal.

''(oo) PRODUCER.—The term 'producer', with respect to a genetically engineered animal, genetically engineered food, or genetic engineering technique, means a person, company, or other entity that—

''(1) develops, manufactures, or imports the genetically engineered animal, genetically engineered food, or genetic engineering technique; or

''(2) takes other action to introduce the genetically engineered animal, genetically engineered food, or genetic engineering technique into interstate commerce.

''(pp) SAFE.—The term 'safe', with respect to a genetically engineered food, means as safe as comparable food that is not produced using a genetic engineering technique.

''(qq) SPLIT USE FOOD.—The term 'split use food' means a product that—

''(1)(A) is produced in the United States; or

''(B) is offered for import into the United States;

''(2) is produced using a genetic engineering technique; and

''(3) could be used as food by both humans and animals but that the producer does not intend to market as food for humans.

''(rr) TRANSFORMATION EVENT.—The term 'transformation event' means the introduction into an organism of genetic material that has been manipulated in vitro.''.

SEC. 4. GENETICALLY ENGINEERED FOODS.

Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended—

(1) by inserting after the chapter heading the following:

"Subchapter A—General Provisions"; and

(2) by adding at the end the following:

"Subchapter B—Genetically Engineered Foods

"SEC. 421. PREMARKET CONSULTATION AND APPROVAL.

''(a) IN GENERAL.—A producer of genetically engineered food, before introducing a genetically engineered food into interstate commerce, shall first obtain approval through the use of a premarket consultation and approval process.

''(b) REGULATIONS.—The Secretary shall promulgate regulations that describe—

''(1) all information that is required to be submitted for the premarketing approval process, including—

''(A) specification of the species or other taxonomic classification of plants for which approval is sought;

''(B) identification of the genetically engineered food;

''(C)(i) a description of each type of genetic manipulation made to the genetically engineered food;

''(ii) identification of the manipulated genetic material; and

''(iii) the techniques used in making the manipulation;

''(D) the effect of the genetic manipulation on the composition of the genetically engineered food (including information describing the specific substances that were expressed, removed, or otherwise manipulated);

''(E) a description of the actual or proposed applications and uses of the genetically engineered food;

''(F) information pertaining to—

''(i) the safety of the genetically engineered food as a whole; and

''(ii) the safety of any specific substances introduced or altered as a result of the genetic manipulation (including information on allergenicity and toxicity);

''(G) test methods for detection of the genetically engineered ingredients in food;

''(H) a summary and overview of information and issues that have been or will be addressed by other regulatory programs for the review of genetically engineered food;

''(I) procedures to be followed to initiate and complete the premarket approval process (including any preconsultation and consultation procedures); and

''(J) any other matters that the Secretary determines to be necessary.

''(2) SPLIT USE FOOD.—

''(A) IN GENERAL.—The regulations under paragraph (1) shall provide for the approval of—

''(i) split use foods that are not approved for human consumption;

''(ii) split use foods that are intended for human use but are marketed under restricted conditions; and

''(iii) other categories of split use food.

''(B) ISSUES.—For each category of split use food, the regulations shall address—

''(i)(I) whether a protocol is needed for segregating a restricted split use food from the food supply; and

''(II) if so, what the protocol shall be;

''(ii)(I) whether action is needed to ensure the purity of any seed to prevent unintended introduction of a genetically engineered trait into a seed that is not designed for that trait; and

''(II) if so, what action is needed and what industry practices represent the best practices for maintaining the purity of the seed;

''(iii)(I) whether a tolerance level should exist regarding cross-mixing of segregated split use foods; and

''(II) if so, the means by which the tolerance level shall be determined;

''(iv) the manner in which the food safety analysis under this section should be conducted, specifying different standards and procedures depending on the degree of containment for that product and the likelihood of the product to enter the food supply;

''(v)(I) the kinds of surveillance that are needed to ensure that appropriate segregation of split use foods is being maintained;

''(II) the manner in which and by whom the surveillance shall be conducted; and

''(III) the manner in which the results of surveillance shall be reported; and

''(vi) clarification of responsibility in cases of breakdown of segregation of a split use food.

''(C) RECALL AUTHORITY.—The regulations shall provide that, in addition to other authority that the Secretary has regarding split use food, the Secretary may order a recall of any split use food (whether or not the split use food has been approved under this section) that—

''(i) is not approved, but has entered the food supply; or

''(ii) has entered the food supply in violation of a condition of restriction under an approval.

''(c) APPLICATION.—The regulations shall require that, as part of the consultation and approval process, a producer submit to the Secretary an application that includes a summary and a complete copy of each research study, test result, or other information referenced by the producer.

''(d) REVIEW.—

''(1) IN GENERAL.—After receiving an application under subsection (c), the Secretary shall—

''(A) determine whether the producer submitted information that appears to be adequate to enable the Secretary to fully assess the safety of the genetically engineered food, and make a description of the determination publicly available; and

''(B) if the Secretary determines that the producer submitted adequate information—

''(i) provide public notice regarding the initiation of the consultation and approval process;

''(ii) make the notice, application, summaries submitted by the producer, and research, test results, and other information referenced by the producer publicly available, including, to the maximum extent practicable, publication in the Federal Register and on the Internet; and

''(iii) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—The Secretary may withhold information in an application from public dissemination to protect a trade secret if—

''(A) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(B) the applicant—

''(i) identifies with specificity the trade secret information in the application; and

''(ii) provides the Secretary with a detailed justification for each trade secret claim; and

''(C) the Secretary—

''(i) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(ii) makes the determination available to the public.

''(3) DETERMINATION.—Not later than 180 days after receiving the application, the Secretary shall issue and make publicly available a determination that—

''(A) summarizes the information referenced by the producer in light of the public comments; and

''(B) contains a finding that the genetically engineered food—

''(i) is safe and may be introduced into interstate commerce;

''(ii) is safe under specified conditions of use and may be introduced into interstate commerce if those conditions are met; or

''(iii) is not safe and may not be introduced into interstate commerce, because the genetically engineered food—

''(I) contains genes that confer antibiotic resistance;

''(II) contains an allergen; or

''(III) presents 1 or more other safety concerns described by the Secretary.

''(4) EXTENSION.—The Secretary may extend the period specified in paragraph (3) if the Secretary determines that an extension of the period is necessary to allow the Secretary to—

''(A) review additional information; or

''(B) address 1 or more issues or concerns of unusual complexity.

''(e) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the petition of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetically engineered food on the basis of information that was not available before the approval.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered food that were not considered in the earlier review; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—In conducting the reconsideration, the Secretary may require the producer to provide information needed to facilitate the reconsideration.

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered food; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a reconsideration under this section, the Secretary determines that the genetically engineered food is not safe, the Secretary shall—

''(A) rescind the approval of the genetically engineered food for introduction into interstate commerce;

''(B) recall the genetically engineered food; or

''(C) take such other action as the Secretary determines to be appropriate.

''(f) EXEMPTIONS.—

''(1) IN GENERAL.—The Secretary may by regulation exempt a category of genetically engineered food from the regulations under subsection (b) if the Secretary determines that the category of food does not pose a food safety risk.

''(2) REQUIREMENTS.—A regulation under paragraph (1) shall—

''(A) contain a narrowly specified definition of the category that is exempted;

''(B) describe with specificity the genetically engineered foods that are included in the category; and

''(C) describe with specificity the genes, proteins, and adjunct technologies (including

use of markers or promoters) that are involved in the genetic engineering of the foods included in the category.

''(3) PUBLIC COMMENT.—The Secretary shall provide an opportunity for the submission of comments by interested persons on a proposed regulation under paragraph (1).

''SEC. 422. MARKETPLACE TESTING.

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall establish a program to conduct testing that the Secretary determines to be necessary to detect, at all stages of production and distribution (from agricultural production to retail sale), the presence of genetically engineered ingredients in food.

''(b) PERMISSIBLE TESTING.—Under the program, the Secretary may conduct tests on foods to detect genetically engineered ingredients—

''(1) that have not been approved for use under this Act, including foods that are developed in foreign countries that have not been approved for marketing in the United States under this Act; or

''(2) the use of which is restricted under this Act (including approval for use as animal feed only, approval only if properly labeled, and approval for growing or marketing only in certain regions).

''SEC. 423. REGISTRY.

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other agencies, as appropriate, shall establish a registry for genetically engineered food that contains a description of the regulatory status of all genetically engineered foods approved under section 421.

''(b) REQUIREMENTS.—The registry under subsection (a) shall contain, for each genetically engineered food—

''(1) the technical and common names of the genetically engineered food; and

''(2) a description of the regulatory status, under all Federal programs pertaining to the testing and approval of genetically engineered foods, of the genetically engineered food;

''(3) a technical and nontechnical summary of the type of, and a statement of the reason for, each genetic manipulation made to the genetically engineered food;

''(4) the name, title, address, and telephone number of an official at each producer of the genetically engineered food whom members of the public may contact for information about the genetically engineered food;

''(5) the name, title, address, and telephone number of an official at each Federal agency with oversight responsibility over the genetically engineered food whom members of the public may contact for information about the genetically engineered food; and

''(6) such other information as the Secretary determines should be included.

''(c) PUBLIC AVAILABILITY.—The registry under subsection (a) shall be made available to the public, including availability on the Internet.''.

SEC. 5. GENETICALLY ENGINEERED ANIMALS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 512 the following:

''SEC. 512A. GENETICALLY ENGINEERED ANIMALS.

''(a) IN GENERAL.—Section 512 shall apply to genetic engineering techniques intended to be used to produce an animal, and to genetically engineered animals, as provided in this section.

''(b) APPLICATION.—An application under section 512(b)(1) shall include—

''(1) specification of the species or other taxonomic classification of the animal for which approval is sought;

''(2) an environmental assessment that analyzes the potential effects of the genetically engineered animal on the environment, including the potential effect on any nongenetically engineered animal or other part of the environment as a result of any intentional or unintentional exposure of the genetically engineered animal to the environment; and

''(3) a plan to eliminate or mitigate the potential effects to the environment from the release of the genetically engineered animal.

''(c) DISSEMINATION OF APPLICATION AND OPPORTUNITY FOR PUBLIC COMMENT.—

''(1) IN GENERAL.—On receipt of an application under section 512(b)(1), the Secretary shall—

''(A) provide public notice regarding the application, including making the notice available on the Internet;

''(B) make the application and all supporting material available to the public, including availability on the Internet; and

''(C) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—

''(A) IN GENERAL.—The Secretary may withhold information in an application from public dissemination to protect a trade secret if—

''(i) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(ii) the applicant—

''(I) identifies with specificity the trade secret information in the application; and

''(II) provides the Secretary with a detailed justification for each trade secret claim; and

''(iii) the Secretary—

''(I) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(II) makes the determination available to the public.

''(B) RISK ASSESSMENT INFORMATION.—This paragraph does not apply to information that assesses risks from the release into the environment of a genetically engineered animal (including any environmental assessment or environmental impact statement performed to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)).

''(d) DENIAL OF APPLICATION.—Under section 512(d)(1), the Secretary shall deny an application if—

''(1) the environmental assessment for a genetically engineered animal is not adequate; or

''(2) the plan to eliminate or mitigate the potential environmental effects to the environment from the release of the genetically engineered animal does not adequately protect the environment.

''(e) ENVIRONMENTAL ASSESSMENT.—

''(1) IN GENERAL.—Before determining whether to approve an application under section 512 for approval of a genetic engineering technique intended to be used to produce an animal, or of a genetically engineered animal, the Secretary shall—

''(A) conduct an environmental assessment to evaluate the potential effects of such a genetically engineered animal on the environment; and

''(B) determine that the genetically engineered animal will not have an unreasonable adverse effect on the environment.

''(2) CONSULTATION.—In conducting an environmental assessment under paragraph (1), the Secretary may consult, as appropriate, with the Department of Agriculture, the United States Fish and Wildlife Service, and any other Federal agency that has expertise relating to the animal species that is the subject of the application.

''(f) SAFETY DETERMINATION.—In determining the safety of a genetic engineering technique or genetically engineered animal, the Secretary shall consider the potential effects of the genetically engineered animal on the environment, including the potential effect on nongenetically engineered animals.

''(g) PROGENY.—If an application for approval of a genetic engineering technique to produce an animal of a species or other taxonomic classification, or genetically engineered animal, has been approved, no additional application shall be required for animals of that species or other taxonomic classification produced using that genetic engineering technique or for the progeny of that genetically engineered animal.

''(h) CONDITIONS OF APPROVAL.—The Secretary may require as a condition of approval of an application that any producer of a genetically engineered animal that is the subject of the application—

''(1) take specified actions to eliminate or mitigate any potential harm to the environment that would be caused by a release of the genetically engineered animal, including actions specified in the plan submitted by the applicant; and

''(2) conduct post-approval monitoring for environmental effects of any release of the genetically engineered animal

''(i) RECALL; SUSPENSION OF APPROVAL.—

''(1) RECALL.—The Secretary may order a recall of any genetically engineered animal (whether or not the genetically engineered animal, or a genetic engineering technique used to produce the genetically engineered animal, has been approved) that the Secretary determines is harmful to—

''(A) humans;

''(B) the environment;

''(C) any animal that is subjected to a genetic engineering technique; or

''(D) any animal that is not subjected to a genetic engineering technique.

''(2) SUSPENSION OF APPROVAL.—If the Secretary determines that a genetically engineered animal is harmful to the health of humans or animals or to the environment, the Secretary may—

''(A) immediately suspend the approval of application for the genetically engineered animal;

''(B) give the applicant prompt notice of the action; and

''(C) afford the applicant an opportunity for an expedited hearing.

''(j) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the motion of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetic engineering technique or genetically engineered animal on the basis of information that was not available during an earlier review.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered animal that were not considered before the approval; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—In conducting the reconsideration, the Secretary may require the producer to provide information needed to facilitate the reconsideration.

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered animal; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a review under this subsection, the Secretary determines that the genetically engineered animal is not safe, the Secretary shall—

''(A) rescind the approval of the genetic engineering technique or genetically engineered animal for introduction into interstate commerce;

''(B) recall the genetically engineered animal; or

''(C) take such other action as the Secretary determines to be appropriate.''.

SEC. 6. PROHIBITED ACTS.

(a) UNLAWFUL USE OF TRADE SECRET INFORMATION.—Section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)) is amended in the first sentence—

(1) by inserting ''421,'' after ''414,''; and

(2) by inserting ''512A,'' after ''512,''.

(b) ADULTERATED FOOD.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

''(i) GENETICALLY ENGINEERED ANIMALS.—If it is a genetically engineered animal, or is a genetically engineered animal produced using a genetic engineering technique, that is not approved under sections 512 and 512A.

''(j) GENETICALLY ENGINEERED FOODS.—

''(1) IN GENERAL.—If it is a genetically engineered food, or is a genetically engineered food produced using a genetic engineering technique, that is not approved under section 421.

''(2) SPLIT USE FOODS.—If it is a split use food that does not maintain proper segregation as required under regulations promulgated under section 421.''.

SEC. 7. TRANSITION PROVISION.

(a) IN GENERAL.—A genetic engineering technique, genetically engineered animal, or genetically engineered food that entered interstate commerce before the date of enactment of this Act shall not require approval under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), but shall be considered to have been so approved, if—

(1) the producer, not later than 90 days after the date of enactment of this Act, submits to the Secretary—

(A) a notice stating that the genetic engineering technique, genetically engineered animal, or genetically engineered food entered interstate commerce before the date of enactment of this Act, providing such information as the Secretary may require; and

(B) a request that the Secretary conduct a review of the genetic engineering technique, genetically engineered animal, or genetically engineered food under subsection (b); and

(2) the Secretary does not issue, on or before the date that is 2 years after the date of enactment of this Act, a notice under subsection (b)(2) that an application for approval is required.

(b) REVIEW BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 months after the date on which the Secretary receives a notice and request for review under subsection (a), the Secretary shall review all relevant information in the possession of the Secretary, all information provided by the producer, and other relevant public information to determine whether a review of new scientific information is necessary to ensure that the genetic engineering technique, genetically engineered animal, or genetically engineered food is safe.

(2) NOTICE THAT APPLICATION IS REQUIRED.—If the Secretary determines that new scientific information is necessary to determine whether a genetic engineering technique, genetically engineered animal, or genetically engineered food is safe, the Secretary, not later than 2 years after the date of enactment of this Act, shall issue to the producer a notice stating that the producer is required to submit an application for approval of the genetic engineering technique, genetically engineered animal, or genetically engineered food under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) FAILURE TO SUBMIT APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a genetically engineered animal or genetically engineered food with respect to which the Secretary issues a notice that an application is required under subsection (b)(2) shall be considered adulterated under section 402 or 501, as the case may be, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 351) unless—

(A) not later than 45 days after the producer receives the notice, the producer submits an application for approval; and

(B) the Secretary approves the application.

(2) PENDING APPLICATION.—A genetically engineered animal or genetically engineered food with respect to which the producer submits an application for approval shall not be considered to be adulterated during the pendency of the application.

SEC. 8. REPORTS.

(a) IN GENERAL.—Not later than 2 years, 4 years, and 6 years after the date of enactment of this Act, the Secretary and the heads of other Federal agencies, as appropriate, shall jointly submit to Congress a report on genetically engineered animals, genetically engineered foods, and genetic engineering techniques.

(b) CONTENTS.—A report under subsection (a) shall contain—

(1) information on the types and quantities of genetically engineered foods being offered for sale or being developed, domestically and internationally;

(2) a summary (including discussion of new developments and trends) of the legal status and acceptability of genetically engineered foods in major markets, including the European Union and Japan;

(3) information on current and emerging issues of concern relating to genetic engineering techniques, including issues relating to—

(A) the ecological impact of, antibiotic markers for, insect resistance to, nongerminating or terminator seeds for, or cross-species gene transfer for genetically engineered foods;

(B) foods from genetically engineered animals;

(C) nonfood crops (such as cotton) produced using a genetic engineering technique; and

(D) socioeconomic concerns (such as the impact of genetically engineered animals and genetically engineered foods on small farms);

(4) a response to, and information concerning the status of implementation of, the recommendations contained in the reports entitled ''Genetically Modified Pest Protected Plants'', ''Environmental Effects of Transgenic Plants'', and ''Animal Biotechnology Identifying Science-Based Concerns'', issued by the National Academy of Sciences;

(5) an assessment of the need for data relating to genetically engineered animals and genetically engineered foods;

(6) a projection of—

(A) the number of genetically engineered animals, genetically engineered foods, and genetic engineering techniques that will require regulatory review during the 5-year period following the date of the report; and

(B) the adequacy of the resources of the Food and Drug Administration; and

(7) an evaluation of the national capacity to test foods for the presence of genetically engineered ingredients in food.

By Mr. KOHL (for himself, Mrs. FEINSTEIN, Mr. SCHUMER, and Mr. REED):

S. 3096. A bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today with my colleagues Senator FEINSTEIN, Senator SCHUMER, and Senator REED to introduce ''BLAST'', the Ballistics, Law Assistance, and Safety Technology Act.

Never before have the tremendous law enforcement benefits of ballistics testing been so apparent. We have the technology to ''fingerprint'' every new gun, and if we were using it today, we would be well on our way toward stopping the serial killer who even now is preying on the residents of suburban Washington.

Every gun has a unique ''fingerprint'', the distinct patterns left on spent casings and bullets after it is fired. What we need to do is create a comprehensive library of the ballistic images of all new guns sold in the U.S. as they come off the assembly line and a library of the images of all guns used in crimes. With those libraries in place, new technology would allow us to compare those ''gun prints'' with bullets found at crime scenes, bullets like those found from the Washington area sniper's gun.

By keeping a computerized image of each new gun's fingerprint, police can compare the microscopic differences in markings left by each gun until they find a match. Once a match is found, law enforcement can begin tracing that weapon from its original sale to the person who used it to commit the crime.

Police tell of solving multiple crimes simply by comparing bullets and shell casings found at the scene of a crime to a gun seized in a seemingly unrelated incident. Let me explain how ballistics testing works and how our measure is crucial to the fight against crime.

The only evidence at the scene of a recent brutal homicide in Milwaukee was 9 millimeter cartridge casings, there were no other clues. But four months later, when a teenage male was arrested on an unrelated charge, he was found to be in possession of the firearm that had discharged those casings. Ballistics linked the two cases. Prosecutors successfully prosecuted three adult suspects for the homicide and convicted the teen in juvenile court.

On September 9, 2000, several suspects were arrested in Boston for the illegal possession of three handguns. Each of the guns was test fired, and the ballistics information was compared to evidence found at other crime scenes. The police quickly found that the three guns were used in the commission of 15 felonies in Massachusetts and Rhode Island. This routine arrest for illegal possession of firearms provided police with new leads in the investigation of 15 unsolved crimes. Without the ballistics testing, these crimes would not have been linked and might have never been solved.

Since the early 1990's, more than 250 crime labs and law enforcement agencies in more than 40 states have been operating independent ballistics systems maintained by either the ATF or the FBI. Together, ATF's Integrated Ballistics Identification System, ''IBIS'', and the FBI's DRUGFIRE system have been responsible for linking 5,700 guns to two or more crimes where corroborating evidence was otherwise lacking.

While success stories are increasingly frequent, the potential of ballistics testing is still untapped. One way that the Bureau of Alcohol, Tobacco and Firearms is making ballistics testing more accessible to State and local law enforcement is through the installation of a new network of ballistics imaging machines. The final introduction of the machines across the country is almost complete and, once it is, the computers will be able to access each other and search for a greater number of images. The National Integrated Ballistics Information network, better know as ''NIBIN,'' will permit law enforcement in one locality access to information stored in other gun crime databases around the entire country. This will help law enforcement exponentially in their efforts to solve gun crimes.

But ballistics testing is only as useful as the number of images in the database. Today, almost all jurisdictions are limited to images of bullets and cartridge casings that come from guns used in crimes. Our bill would dramatically expand the scope of that database by mandating that all guns manufactured or imported would be test fired before being placed into the stream of commerce. The images collected from the test firing would then be collected and accessible to law enforcement, and law enforcement only, for the purpose of investigating and prosecuting gun crimes.

As local, State and Federal law enforcement authorities search for the deranged murderer who has been terrorizing the Washington D.C. metropolitan area, they are using ballistics testing to determine whether the bullets and shell casings found at the scene of each crime are from the same gun. They can then identify the gun, giving them a better idea of what, and who, they are looking for in their manhunt. Had the gun used in these crimes been subject to a test fire before being placed in the stream of commerce, authorities would be able to identify the gun based on the bullets and casings. With that information, law enforcement could then trace the sale and transfer of the firearm in an effort to identify the owner of the gun and solve the crime.

Today, police can find out more about a human being than they can about a gun used in a crime. Law enforcement can use DNA testing, take fingerprints and blood samples, search a person's health records, peruse bank records and credit card statements, obtain phone records and get a list of book purchases to link a suspect to a crime. Yet, the bullets found at the scene of a crime often cannot be traced back to the gun used because our ballistics images database is not comprehensive. We are unnecessarily limiting law enforcement's ability to track the criminals who have used guns in the commission of a crime. The BLAST bill will change all that. by making gun crimes easier to solve, all of us will be safer.

The burden on manufacturers is minimal, we authorize funds to underwrite the cost of testing, and the assistance to law enforcement is considerable. And don't take my word for it, ask the gun manufacturers and the police. Listen to what Paul Januzzo, the vice-president of the gun manufacturer Glock, said in reference to ballistics testing, ''our mantra has been that the issue is crime control, not gun control . . . it would be two-faced of us not to want this.'' In their agreement with the Department of Housing and Urban Development, Smith & Wesson agreed to perform ballistics testing on all new handguns. And Ben Wilson, the chief of the firearms section at ATF, emphasized the importance of ballistics testing as a investigative device, ''This [ballistics] allows you literally to find a needle in a haystack.''

To be sure, we are sensitive to the notion that law abiding hunters and sportsmen need to be protected from any misuse of the ballistics database by government. The BLAST bill explicitly prohibits ballistics information from being used for any purpose unless it is necessary for the investigation of a gun crime.

The BLAST bill will enhance a revolutionary new technology that helps solve crime. BLAST is a worthwhile piece of crime control legislation. I hope that the Senate will quickly move to pass it.

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

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

S. 3096

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 ''Ballistics, Law Assistance, and Safety Technology Act'' or the ''BLAST Act''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to increase public safety by assisting law enforcement in solving more gun-related crimes and offering prosecutors evidence to link felons to gun crimes through ballistics technology;

(2) to provide for ballistics testing of all new firearms for sale to assist in the identification of firearms used in crimes;

(3) to require ballistics testing of all firearms in custody of Federal agencies to assist in the identification of firearms used in crimes; and

(4) to add ballistics testing to existing firearms enforcement programs.

SEC. 3. DEFINITION OF BALLISTICS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) BALLISTICS.—The term 'ballistics' means a comparative analysis of fired bullets and cartridge casings to identify the firearm from which bullets and cartridge casings were discharged, through identification of the unique characteristics that each firearm imprints on bullets and cartridge casings.''.

SEC. 4. TEST FIRING AND AUTOMATED STORAGE OF BALLISTICS RECORDS.

(a) AMENDMENT.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

''(m)(1) In addition to the other licensing requirements under this section, a licensed manufacturer or licensed importer shall—

''(A) test fire firearms manufactured or imported by such licensees as specified by the Secretary by regulation;

''(B) prepare ballistics images of the fired bullet and cartridge casings from the test fire;

''(C) make the records available to the Secretary for entry in a computerized database; and

''(D) store the fired bullet and cartridge casings in such a manner and for such a period as specified by the Secretary by regulation.

''(2) Nothing in this subsection creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

''(3)(A) The Attorney General and the Secretary shall assist firearm manufacturers and importers in complying with paragraph (1) through—

''(i) the acquisition, disposition, and upgrades of ballistics equipment and bullet and cartridge casing recovery equipment to be placed at or near the sites of licensed manufacturers and importers;

''(ii) the hiring or designation of personnel necessary to develop and maintain a database of ballistics images of fired bullets and cartridge casings, research and evaluation;

''(iii) providing education about the role of ballistics as part of a comprehensive firearm crime reduction strategy;

''(iv) providing for the coordination among Federal, State, and local law enforcement and regulatory agencies and the firearm industry to curb firearm-related crime and illegal firearm trafficking; and

''(v) any other steps necessary to make ballistics testing effective.

''(B) The Attorney General and the Secretary shall—

''(i) establish a computer system through which State and local law enforcement agencies can promptly access ballistics records stored under this subsection, as soon as such a capability is available; and

''(ii) encourage training for all ballistics examiners.

''(4) Not later than 1 year after the date of enactment of this subsection and annually

thereafter, the Attorney General and the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report regarding the impact of this section, including—

''(A) the number of Federal and State criminal investigations, arrests, indictments, and prosecutions of all cases in which access to ballistics records provided under this section served as a valuable investigative tool in the prosecution of gun crimes;

''(B) the extent to which ballistics records are accessible across jurisdictions; and

''(C) a statistical evaluation of the test programs conducted pursuant to section 6 of the Ballistics, Law Assistance, and State Technology Act.

''(5) There is authorized to be appropriated to the Department of Justice and the Department of the Treasury for each of fiscal years 2001 through 2004, $20,000,000 to carry out this subsection, including—

''(A) installation of ballistics equipment and bullet and cartridge casing recovery equipment;

''(B) establishment of sites for ballistics testing;

''(C) salaries and expenses of necessary personnel; and

''(D) research and evaluation.

''(6) The Secretary and the Attorney General shall conduct mandatory ballistics testing of all firearms obtained or in the possession of their respective agencies.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall take effect on the date on which the Attorney General and the Secretary of the Treasury, in consultation with the Board of the National Integrated Ballistics Information Network, certify that the ballistics systems used by the Department of Justice and the Department of the Treasury are sufficiently interoperable to make mandatory ballistics testing of new firearms possible.

(2) BALLISTICS TESTING.—Section 923(m)(1) of title 18, United States Code, as added by subsection (a), shall take effect 5 years after the date of enactment of this Act.

(3) EFFECTIVE ON DATE OF ENACTMENT.—Section 923(m)(6) of title 18, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 5. PRIVACY RIGHTS OF LAW ABIDING CITIZENS.

Ballistics information of individual guns in any form or database established by this Act may not be used for prosecutorial purposes unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime.

Mr. REED. Mr. President, I rise today to join my colleague Senator KOHL in introducing the Ballistics, Law Assistance, and Safety Technology Act. This legislation would build on the success of the existing National Integrated Ballistic Information Network by requiring, for the first time, ballistics testing of all new firearms so that law enforcement can more effectively trace bullets or cartridge casings recovered from shootings.

As we have learned from the horrific series of sniper shootings in the Washington, D.C. metropolitan area over the past week, law enforcement already has the technology to link bullets or casings found at separate crime scenes back to a single gun. Every firearm has individual characteristics that are as unique to it as fingerprints are to human beings. When a gun is fired, it transfers these characteristics, in the form of small, sometimes microscopic scratches and dents, to the projectiles and cartridge casings fired in it.

These unique fingerprints offer a great crime-solving tool for law enforcement. When bullets or cartridge casings are found at a crime scene, firearms examiners can use the marks for comparison, to determine whether or not the bullets or casings were expelled from a suspect's firearm. If a firearm is recovered at the scene, a test fire of the weapon creates example bullets and cartridge casings for comparison to those found in or near a victim. Bullets and casings found at one crime scene can also be compared with those found at another in order to link the crimes.

On the national level, the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms recently combined their ballistics identification programs into the National Integrated Ballistic Information Network, or NIBIN, which provides for the installation and networking of automated ballistic imaging equipment in state and local law enforcement agencies across the country. Because thousands more pieces of recovered ballistic evidence can be compared using digital automation than would be possible using only manual comparisons, links between otherwise seemingly unrelated crimes are discovered, and investigative leads are generated for police followup.

Ballistics imaging technology is already demonstrating its potential to revolutionize criminal investigation. But a major tool for law enforcement is missing here, and that is a national ballistics fingerprint system that would enable law enforcement to trace crime scene evidence back to a suspect. The current NIBIN system provides valuable information on guns that have been used in crime, but unless such a gun was used in a previous crime for which ballistics evidence was collected and entered, the bullets or casings from the crime scene will find no match in the NIBIN system. No ballistics data are available for most of the estimated 200 million guns in this country, and no ballistics fingerprint information is being collected on the three to five million new guns coming into commerce in the United States each year. As a result, law enforcement usually has no way to trace the evidence back to a specific firearm and, ultimately, a suspect.

The bill we are introducing today would give law enforcement the tools it needs to fight violent crime by requiring gun manufacturers and importers to test fire all new firearms, prepare ballistics images of the fired bullet and cartridge casings, and make these records available to the Bureau of Alcohol, Tobacco and Firearms for entry in a computerized database which would be shared with state and local law enforcement agencies across the country. The bill also provides $20 million per year for ATF to help gun manufacturers and importers comply with these requirements by installing or upgrading ballistics equipment at or near the places of business of manufacturers and importers.

I have no doubt that the National Rifle Association and some in the gun industry are going to say that what we are proposing is tantamount to establishing a national registry of gun owners. I want to point out that this bill does not require the submission to law enforcement of any information beyond the ballistic images produced by test firing the gun. The names of any people or businesses that buy guns from federally licensed manufacturers or importers will continue to be kept in the files of those manufacturers and importers just as the law requires today. Law enforcement would only have access to this information in the context of a criminal investigation, for example when the evidence from a crime scene matches a ballistics fingerprint record for a gun produced and sold by a certain manufacturer or importer.

We should have taken these steps years ago. If we had, maybe the ballistic evidence from this week's sniper shootings would match an image in the law enforcement database, and we could save lives by identifying and arresting this cold-blooded killer before he strikes again. But the gun lobby has prevented the creation of an effective ballistics database by portraying this as a national gun registry. In fact, they have been so successful that even though two States, Maryland and New York, have created a ballistics fingerprint system for all guns sold in those States, the ATF's NIBIN system is not even allowed to access those records, nor can law enforcement agencies in other States look at the records through the NIBIN network. We will never know how many violent crimes may go unsolved because of this insane restriction on law enforcement's ability to do its job.

We have a responsibility to give law enforcement authorities the tools they need to quickly track down and bring to justice those who would use firearms to prey on our communities. The bill we are introducing today will do that by taking full advantage of the crime-fighting benefits that ballistic imaging and analysis can provide. I urge all of my colleagues to support this important legislation.

By Mr. BAUCUS (for himself and Mr. CRAPO):

S. 3097. A bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable credit for holders of qualified highway bonds; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the MEGA INNOVATE ACT. Maximum Economic Growth for America through Innovative Financing.

MEGA Innovate is part of a series of bi-partisan bills that Senator CRAPO

and I have introduced that serve as our proposals for TEA 21 Reauthorization.

I was privileged to have been an author of TEA 21, and I look forward to working with my fellow Finance Committee members, EPW Committee members, as well as members on other Committees, as we craft the next highway bill under the leadership of Senator JEFFORDS.

The Finance Committee has held hearings that examined how to provide funding for our highway system. We heard about projections for Trust Fund income over the next 10 years.

As successful as standard financing has been, our transportation needs far outweigh our resources.

The MEAGA INNOVATE ACT is about increasing financing to the Highway Trust Fund without raising taxes. I am looking at additional means of financing to supplement the Highway Trust Fund in order to meet our Nation's transportation needs.

In recent years there has been increased recognition, throughout the country, of the important contribution that a strong highway program makes to our nation's economic prosperity and quality of life.

In Montana it is our economy's ''golden egg'' so to speak.

As we prepare to reauthorize the highway program next year, a fundamental question for the Congress is how to increase the level of investment, for the benefit of all citizens and all States.

Earlier this year Senator CRAPO and I introduced bi-partisan legislation with 12 co-sponsors, S. 2678—the MEGA TRUST Act, Maximum Economic Growth for America through the Highway Trust Fund. This bill laid out some ways to increase investment in the highway program without raising taxes.

That legislation would allow the Highway Trust Fund to be properly credited with taxes either paid or foregone with respect to gasohol consumption.

It would also reinstate the principle that the highway and mass transit accounts of the Highway Trust Fund should be credited with interest on their respective balances.

Those are important reforms that I believe we must enact as soon as possible. But we must continue to work to find additional ways to enable a stronger level of highway investment, because that investment is so important and beneficial to the country.

Today I am introducing the MEGA INNOVATE Act—Maximum Economic Growth for America Through Innovative Financing.

Under this legislation the Secretary of the Treasury would sell Tax Credit Bonds with the proceeds being placed in the Highway Account of the Highway Trust Fund. The Treasury would be responsible for the principal and interest.

The bond proceeds will enable the basic highway program to grow and would help the citizens of every state.

Administration of this initiative will be simple. No new structures are required. This is a new idea that does not raise taxes, but would advance our national interest in a strong highway program.

As this is a new idea for highways, the bill introduces this concept at a very modest level, in the range of $3 billion annually in bond sales.

However, when combined with the provisions of the MEGA TRUST Act, and the continuation of current sources of revenue, this legislation should enable the highway program to achieve an obligation level of approximately $41 to 42 billion by fiscal year 2009.

Many other officials and organizations have shown interest in both MEGA TRUST and MEGA INNOVATE, such as the State DOTs of Montana, Idaho, North and South Dakota and Wyoming. Highway Advocate groups, such as the Highway Users Alliance have also shown support for both bills.

I very much appreciate the support of these groups, as well as the support of others for these two important initiatives.

A well-funded highway program is certainly essential to the economic future of my State of Montana and to other States.

So, I look forward to working with my colleagues on the MEGA INNOVATE ACT, on the MEGA TRUST ACT, and all my other MEGA bills. I also look forward to looking at other ways to help our citizens benefit from increased levels of highway investment.

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

S. 3098. A bill to amend title XVIII of the Social Security Act to establish a program for the competitive acquisition of items and services under the medicare program; to the Committee on Finance.

Mr. GRAHAM. Mr. President, I rise today with my friend and colleague from Texas, Mr. Gramm, to introduce the Medicare Competition Acquisition Act of 2002.

Today, we are faced with the reality that the Medicare program must be reformed for the 21st Century. In the 37 years since Medicare was created, several medical advances have been achieved. It is time to reap the full benefits of those advances and shift the focus of the Medicare program to one that promotes wellness. For that, a prescription drug benefit is mandatory. It is the single most important reform we can make to Medicare.

However, the absence of a prescription drug benefit for America's seniors is not the only archaic aspect of the Medicare program. Congress has required Medicare to use an arbitrary method of payment for certain items and services, which costs the program and its beneficiaries much more than it should.

We think America's seniors deserve better. They deserve to pay fair market price for high-quality medical products instead of being subject to an outdated fee schedule that often reflects unreasonably high markups above actual cost.

The Medicare Competitive Acquisition Act applies high-quality standards and fiscal discipline to the Medicare program. Under this bill, Medicare will be able to use the same competitive tools the private sector has in place to control costs, while maintaining beneficiary access to quality medical supplies and services. This proposal was included in President Bush's fiscal year 2003 budget, and the Clinton Administration long advocated this fiscally responsible, high quality approach to improve Medicare.

Several studies by the United States General Accounting Office (GAO) and the Department of Health and Human Services, HHS, Inspector General indicate that the Medicare program and Medicare beneficiaries have been paying far too much for some medical equipment and supplies. Take pre-fabricated orthotics, for example. The most recent GAO data available indicates that the Medicare allowance for a pre-fabricated, self-adjusting hand/wrist brace is more than 140% higher than its average retail price. For an intermittent urinary catheter, the difference between the Medicare allowance and the average retail price is 93 percent.

The Congressional Budget Office estimates that our bill will save Medicare $1.8 billion over 5 years and $6.9 billion over 10 years. This means savings for beneficiaries of $450 million over 5 years and $1.72 billion over 10 years.

I was pleased that the Balanced Budget Act of 1997 included a modified version of my competitive bidding proposal. It gave HHS the authority to conduct competitive bidding demonstrations for Medicare Part B items and services other than physician services. The Medicare Competitive Acquisition Act builds upon successful demonstration projects in Polk County, Florida and San Antonio, Texas by allowing the HHS Secretary to establish a competitive bidding system for durable medical equipment and supplies in appropriate parts of the country.

I want to thank my colleague from the great State of Georgia, Mr. Cleland, for his leadership on this issue. The Senator not only helped us develop significant beneficiary protections, he worked to ensure flexibility for rural areas. Senator Cleland was also instrumental in our request for a GAO study on the introduction of new and innovative medical equipment and supplies to the Medicare market.

The Medicare Competitive Acquisition Act allows the Centers for Medicare and Medicaid Services, CMS, to award contracts to multiple suppliers in each region in order to enhance beneficiary freedom of choice and promote quality among competitors. The number of suppliers selected will be based on product demand, the number of suppliers selected will be based on product

demand, the number of suppliers who bid and the service capacity of bidding suppliers. This ensures that the number of suppliers selected will be more than sufficient to supply a given area and that beneficiaries will have access to the products and services they need. CMS will have the authority to replace any winning supplier whose product or service quality deteriorates after the contract is awarded.

Small businesses are vital to the success of competitive bidding. In both rounds of the Polk County demonstration, small businesses received 12 of the 16 willing contracts. In the San Antonio demonstration, they received 40 of the 51 winning contracts.

To ensure a level playing field in the future, we continue small business protections implemented under the demonstration by CMS. For example, we give suppliers the option to bid for a portion of an expansion area as opposed to having to bid for an entire expansion area. We also allow suppliers to bid for only one or a few product categories in a competitive acquisition area as opposed to having to bid for all of the product categories in a particular area.

The introduction of competitive bidding into the Medicare program will not only ensure beneficiary access to high-quality medical equipment and supplies, it will also reduce fraud and abuse. Suppliers who are under sanctions for fraud and abuse will be ineligible to participate in the bidding process. On-site reviews will be conducted prior to awarding contracts, ensuring that the suppliers are valid and operating businesses.

Contrary to what the nay-sayers will tell you, competitive bidding for durable medical equipment and suppliers has nothing to do with cutting services to beneficiaries or lowering quality standards. It has everything to do with improving access to high-quality medical equipment for America's seniors in a cost-effective manner.

As we search for ways to secure Medicare for the long term, we must take prudent steps to improve the efficiency of the program. Implementation of competitive bidding for certain Part B items and services is one way in which Congress can show that we are serious about preserving the integrity of Medicare.

I urge the Senate to support this measure.

By Mrs. FEINSTEIN:

S. 3100. A bill to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes.

Mr. BAUCUS. Mr. President, I rise to strongly speak in favor of the legislation introduced today by Senators FEINSTEIN and GREGG titled ''The Social Security Number Misuse Prevention Act of 2002,'' indeed, I am an original cosponsor of this legislation. If enacted, this bill will reduce the misuse of individuals' Social Security numbers, SSNs, by others.

As you well know, the Social Security number is increasingly being used for purposes not related to the administration of the Social Security program, because it is, in many cases, our national identification number. As a result, many people can gain access to the number, and this facilitates its use as a tool for illegal activity, most significantly for the crime of identity theft. In a report issued by the Social Security Administration's Office of the Inspector General, OIG, in May 1999, investigators concluded that most identity-related crimes involved the fraudulent use of a Social Security number. Additionally, the introduction of the SSN into the arena of electronic commerce has been accompanied by a dramatic increase in SSN misuse.

Given the upward trend in SSN misuse, I feel that the Congress must take a fresh look at options for safeguarding Social Security numbers. I believe that the bill introduced by Senators FEINSTEIN, GREGG and myself today is an important development in that effort. However, I want to make it clear that this bill will not eliminate all misuse of Social Security numbers. There are many legitimate and necessary uses of Social Security numbers and this bill does not prohibit such uses. Unfortunately, the absence of such prohibitions makes it easier for those who seek to misuse Social Security numbers.

The legislation being introduced today is very similar to a bill, S. 848, that was introduced by Senators FEINSTEIN and GREGG during the first session of the 107th Congress. Although S. 848 was referred to the Judiciary Committee, the bill deals extensively with sections of the US Code concerning Social Security numbers, legislative changes to these sections are in the jurisdiction of the Finance Committee. Therefore, Senator GRASSLEY and I expressed our concern that S. 848 should have been referred to the Finance Committee and we initiated a successful unanimous consent request, with the support of Senators LEAHY, HATCH, FEINSTEIN, and GREGG, to sequentially refer the bill to the Finance Committee. The Judiciary Committee favorably reported the bill on May 16th of this year and it was immediately referred to the Finance Committee.

We at the Finance Committee examined the problems which this legislation tries to address and found potential solutions to these problems to be very complex. In addition, as the legislation could potentially affect all of the uses and availabilities of SSNs many interested parties contacted the Finance Committee to express their views.

Given the complexity of the issues and the large number of stakeholders involved, the Finance Committee decided to schedule a subcommittee hearing in advance of a mark-up in order to better inform Committee members and their staffs about these issues. Special attention was focused on the core set of solutions embodied in the bill reported by the Judiciary Committee. After a long series of discussions, we reached agreement with Senator FEINSTEIN on legislation which makes a number of changes to the reported version of S. 848. We then scheduled a mark-up of this substitute for S. 848, but were unable to proceed with the mark-up because some members of the Committee planned to offer amendments that were extraneous and controversial. As a result, in order to move this legislation forward expeditiously, I asked Senators FEINSTEIN and GREGG to introduce the substitute for S. 848 as new legislation with me as an original cosponsor. Moreover, I intend to use procedures in Rule XIV of the Senate to have it placed on the calendar, rather than have it referred to Committee. Once on the calendar, the bill is eligible to be brought up for debate on the Senate floor.

As reported by the Judiciary Committee, S. 848 would: Prohibit the sale, purchase, or display of a Social Security number to the general public without the individual's consent, with exceptions for legitimate business and government activity; prohibit the release of certain key public records to the general public unless Social Security numbers are first redacted, this provision applies only to records created after the bill is enacted; require Social Security numbers to be removed from government checks, drivers' licenses, and motor vehicle registrations; prohibit the employment of prisoners in any capacity that would give them access to Social Security numbers; make it a crime to obtain an SSN for the purpose of locating or identifying a person with the intent to physically harm that person; give consumers the right to refuse to give out their Social Security numbers when purchasing a good or service from a commercial entity, unless the entity has a legitimate need as specified in the law; and create new civil monetary penalties, criminal penalties, and civil actions to help prevent misuse of Social Security numbers; requires all new credit card payment processing machines to truncate the credit card account numbers to the last five digits on the printed receipt.

The substitute for S. 848 that is being introduced today retains the basic structure and objectives of the Judiciary Committee-reported bill, but makes several substantive changes that improve the bill. The substitute bill: makes clear that it is permissible to sell, purchase or display Social Security numbers for any legitimate use required, authorized or excepted by any Federal law. Stops new public records containing Social Security numbers from being posted on the Internet and calls for a study by the General Accounting Office of issues pertaining to the display of Social Security numbers on any public records. Permits State Attorneys General to enforce the new ''right to refuse'' to provide a Social Security number, but prohibits class action lawsuits to enforce this new ''right.'' Sunsets the ''right to refuse'' after six years, and calls for a report by the Attorney General, six months after the sunset regarding the effectiveness of this ''right to refuse'' and whether it should be reauthorized.

To conclude, I think that the introduction of this revised version of S. 848 and the placement of it on the calendar are two very important steps in our fight to reduce the misuse of Social Security numbers and reduce the theft of

identities. I look forward to working with my colleagues to enact this important piece of legislation.

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

S. 3101. A bill to amend title IV of the Missing Children's Assistance Act to provide for increased funding for the National Center for Missing and Exploited Children, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce the Missing Children's Assistance Act of 2002, which doubles the funding for the National Center for Missing and Exploited Children and reauthorizes the Center through fiscal year 2006. I am pleased to have Senators HATCH and BIDEN as cosponsors.

Due to tragic circumstances, the importance of the National Center for Missing and Exploited Children, ''NCMEC'', has become even more pronounced over the past year. We have seen repeated media coverage of missing children from every corner of our nation, and parents and children alike have slept less easily. As a father and grandfather, I know that an abducted child is every parent's or grandparent's worst nightmare.

The Justice Department estimates that between 3,000 and 4,000 children are taken by strangers every year. This legislation will strengthen our efforts to return those children to their homes, and relieve their parents of unimaginable grief.

The Center for Missing and Exploited Children assists parents, children, law enforcement, schools, and the community in their efforts to recover missing children. The professionals at NCMEC have disturbingly busy jobs, they have worked on more than 73,000 cases of missing and exploited children since NCMEC's founding in 1984, helping to recover more than 48,000 of them. They also raise awareness about preventing child abduction, molestation, and sexual exploitation.

As part of its mission, NCMEC runs: 1. a 24-hour telephone hotline to take reports about missing children and clues that might lead to their recovery, 2. a national child pornography tipline, and 3. a program that assists families in the reunification process. NCMEC also helps runaway children, including through attempts to reduce child prostitution.

NCMEC manages to do all of this good work with only a $10 million authorization, which expires after fiscal year 2003. We should act now both to extend its authorization and provide additional funds so that it can continue to help keep children safe and families intact around the nation.

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Mrs. MURRAY):

S. 3102. A bill to amend the Communications Act of 1934 to clarify and reaffirm State and local authority to regulate the placement, construction, and modification of broadcast transmission facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Mrs. MURRAY):

S. 3103. A bill to amend the Communications Act of 1934 to clarify and reaffirm State and local authority to regulate the placement, construction, and modification of wireless services facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LEAHY. Mr. President, I rise today to offer two pieces of legislation that would close a loophole that allows Federal regulators to overrule local officials on the building of cellular and broadcast towers. I am proud to be joined by Senator JEFFORDS, and Senator MURRAY in introducing legislation that will return decision-making power on the siting of towers to local communities.

The 1996 Telecommunications Act, which I opposed, contained a provision that allowed the Federal Communications Commission to preempt the decisions of local authorities. Over the last five years, a small loophole in the 1996 Act has spurred David versus Goliath battles across the country. Small communities that pride themselves in deciding what their towns will look like, now have few options when they try to stop or even negotiate a different site for broadcast or cellular towers. In Vermont, we have had several communities, Shelburne, Bethel, and Charlotte, run directly into this problem. What used to be their right to decide these decisions under zoning laws was up-ended.

These communities understand that there will be new towers. Demand for wireless services has skyrocketed over the last few years. The mountains and hills of Vermont make many Vermonters joke that cell phones are more useful as paper weights than as a way to talk with friends and family. However, Vermonters and people across the country do not believe that we have to sacrifice our scenic views and residential areas to ensure wireless coverage.

As a Vermonter, I do not want to wake up ten years from now and see my State turned into a pincushion of antennas and towers. That is why I am introducing these bills today. In a way, these bills are the culmination of a long battle with the Federal Communications Commission and in the courts to protect local authority.

In 1997, the Federal Communications Commission seized on the legislative loophole and proposed an expansive new rule to prevent State and local zoning laws from regulating the placement of cell and broadcast towers on the basis of environmental considerations, aviation safety, or other locally-determined matters. I fought this proposed rule and was joined by many Vermonters, Governor Dean, the Vermont Environmental Board, mayors, zoning officials and others. I also joined with many Vermonters and the rest of the Vermont Congressional Delegation to file an amicus brief in the Supreme Court, arguing that the preemption of local power to issue building permits was a clear violation of the 10th Amendment.

Unfortunately, that petition failed and now I am introducing legislation to fix a problem Congress created. The preemption of local authority should never have happened. Health, safety, and local land use issues should be left in the hands of those who know these issues best and can find a way to balance the needs of their community—the local zoning authorities.

In Vermont, we actually have a very well-tested and successful way of finding a balance between protecting the environment, the health and safety of Vermonters, and meeting economic demands. It's called Act 250. It was adopted over three decades ago when Vermonters realized that our cherished hillsides and New England towns could be overrun with homes. Now, the same realization has occurred with cell and broadcast towers.

My bill will not prohibit new towers. It will simply let local officials use their state and local protections, like Act 250, find the best solution for their community.

I think that many of my colleagues would agree that it is not too much to ask that telecommunication companies follow the zoning laws that apply to everyone else.

In fact, we already have ways to meet the needs of telecommunication companies and communities. There are other viable alterative communication technologies to massive towers. I have in the past discussed how PCS-Over-Cable and PCS-Over-Fiber technologies can provide digital cellular service using small antennas, eliminating the need for large towers. These small antennas can be attached to an existing telephone pole or lamp post. Not only is this technology more aesthetically pleasing, but because the companies do not need to buy land for these antennas, these delivery mechanisms are cheaper as well. We should allow local government to require the usage of these less intrusive technologies,

This is ultimately a very simple issue. It's an issue of local control. I believe that it is local authorities, not Federal regulators, who should determine when and where these structures are built. I urge my fellow Senators to join me in supporting this legislation. I ask unanimous consent that the text of these bills and two section-by-section analyses be printed in the RECORD.

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

S. 3102

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 ''Local Control of Broadcast Towers Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The placement, construction, and modification of broadcast transmission facilities near residential communities and facilities such as schools can greatly reduce the value of residential properties, destroy the views from properties, produce radio frequency interference, raise concerns about potential long-term health effects of such facilities, and reduce substantially the desire to live in the areas of such facilities.

(2) States and local governments have traditionally regulated development and should be able to exercise control over the placement, construction, and modification of broadcast transmission facilities through the use of zoning and other land use regulations relating to the protection of the environment, public health and safety, and the general welfare of the community and the public.

(3) The Federal Communications Commission establishes policies to govern interstate and international communications by television, radio, wire, satellite and cable. The Commission ensures compliance of such activities with applicable Federal laws, including the National Environmental Policy Act of 1969 and the National Historic Preservation Act, in its decision-making on such activities.

(4) The Commission defers to State and local authorities which regulate the placement, construction, and modification of broadcast transmission facilities through the use of zoning, construction and building, and environmental and safety regulations in order to protect the environment and the health, safety, and general welfare of communities and the public.

(5) On August 19, 1997, the Commission issued a proposed rule, MM Docket No. 97–182, which would preempt the application of most State and local zoning, environmental, construction and building, and other regulations affecting the placement, construction, and modification of broadcast transmission facilities.

(6) The telecommunications industry and its experts should be expected to have access to the best and most recent technical information and should therefore be held to the highest standards in terms of their representations, assertions, and promises to governmental authorities.

(b) PURPOSE.—The purpose of this Act is to confirm that State and local governments are the appropriate entities—

(1) to regulate the placement, construction, and modification of broadcast transmission facilities consistent with State and local zoning, construction and building, environmental, and land use regulations;

(2) to regulate the placement, construction, and modification of broadcast transmission facilities so that their placement, construction, or modification will not interfere with the safe and efficient use of public airspace or otherwise compromise or endanger the health, safety, and general welfare of the public; and

(3) to hold accountable applicants for permits for the placement, construction, or modification of broadcast transmission facilities, and providers of services using such facilities, for the truthfulness and accuracy of representations and statements placed in the record of hearings for such permits, licenses, or approvals.

SEC. 3. PROHIBITION ON ADOPTION OF RULE REGARDING PREEMPTION OF STATE AND LOCAL AUTHORITY OVER BROADCAST TRANSMISSION FACILITIES.

Notwithstanding any other provision of law, the Federal Communications Commission shall not adopt as a final rule or otherwise directly or indirectly implement any portion of the proposed rule set forth in ''Preemption of State and Local Zoning and Land Use Restrictions on Siting, Placement and Construction of Broadcast Station Transmission Facilities'', MM Docket No. 97–182, released August 19, 1997.

SEC. 4. AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF BROADCAST TRANSMISSION FACILITIES.

Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following:

''SEC. 340. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF BROADCAST TRANSMISSION FACILITIES.

''(a) AUTHORITY TO REQUIRE LEAST INTRUSIVE FACILITIES.—

''(1) IN GENERAL.—A State or local government may deny an application to place, construct, or modify broadcast transmission facilities on the basis that alternative technologies, delivery systems, or structures are capable of delivering broadcast signals comparable to that proposed to be delivered by such facilities in a manner that is less intrusive to the community concerned than such facilities.

''(2) CONSIDERATIONS.—In determining under paragraph (1) the intrusiveness of technologies, delivery systems, or structures for the transmission of broadcast signals, a State or local government may consider the aesthetics of such technologies, systems, or structures, the environmental impact of such technologies, systems, or structures, and the radio frequency interference or radiation emitted by such technologies, systems, or structures.

''(3) BURDEN OF PROOF.—In any hearing for purposes of the exercise of the authority in paragraph (1), the burden shall be on the applicant.

''(b) RADIO INTERFERENCE.—A State or local government may regulate the location, height, or modification of broadcast transmission facilities in order to address the effects of radio frequency interference caused by such facilities on local communities and the public.

''(c) AUTHORITY TO REQUIRE STUDIES AND DOCUMENTATION.—No provision of this Act may be interpreted to prohibit a State or local government from—

''(1) requiring a person seeking authority to place, construct, or modify broadcast transmission facilities to produce—

''(A) environmental, biological, and health studies, engineering reports, or other documentation of the compliance of such facilities with radio frequency exposure limits, radio frequency interference impacts, and compliance with applicable laws, rules, and regulations governing the effects of such facilities on the environment, public health and safety, and the general welfare of the community and the public; and

''(B) documentation of the compliance of such facilities with applicable Federal, State, and local aviation safety standards or aviation obstruction standards regarding objects effecting navigable airspace; or

''(2) refusing to grant authority to such person to place, construct, or modify such facilities within the jurisdiction of such government if such person fails to produce studies, reports, or documentation required under paragraph (1).

''(d) CONSTRUCTION.—Nothing in this section may be construed to prohibit or otherwise limit the authority of a State or local government to ensure compliance with or otherwise enforce any statements, assertions, or representations filed or submitted by or on behalf of an applicant with the State or local government for authority to place, construct, or modify broadcast transmission facilities within the jurisdiction of the State or local government.

''(e) BROADCAST TRANSMISSION FACILITY DEFINED.—In this section, the term 'broadcast transmission facility' means the equipment, or any portion thereof, with which a broadcaster transmits and receives the radiofrequency waves that carry the services of the broadcaster, regardless of whether the equipment is sited on one or more towers or other structures owned by a person or entity other than the broadcaster, and includes the location of such equipment.''.

SECTION-BY-SECTION SUMMARY OF LOCAL CONTROL OF BROADCAST TOWERS ACT

Sec. 1. Short Title.

The subtitle may be cited as the ''Local Control of Broadcast Towers Act.''

Sec. 2. Findings and Purposes.

The bill finds that as the placement of broadcast towers or other broadcast structures (heretofore referred to as ''broadcast transmission facilities'') can reduce property values, create radio frequency interference, and raise potential long-term health concerns. It also finds that state and local authorities should have the same control to regulate the placement of broadcast transmission facilities as they would with any other type of construction. The purpose of the bill is to reinstate the right of state and local governments to regulate the placement, construction, and modification of these facilities.

Sec. 3. Prohibition on Adoption of Rule Regarding Preemption of State and Local Authority Over Broadcast Transmission Facilities.

Section 3 prohibits the Federal Communications Commission (FCC) from implementing ''Preemption of State and Local Zoning and Land Use Restrictions on Siting, Placement and Construction of Broadcast Station Transmission Facilities.'' This rule prevents state and local governments from regulating the construction or modification of broadcast transmission facilities.

Sec. 4. Authority Over Placement, Construction, and Modification of Broadcast Transmission Facilities.

Section 4 adds a new section to Part I of title III. It gives state and local governments the power to deny applications to place, construct, or modify broadcast transmission facilities on the basis that less intrusive technologies are available to provide comparable service. Denials can be issued for reasons of aesthetics, environmental impact, radio frequency interference, or radiation emissions. Burden of proof lies with the applicant.

Section 4(b) also stipulates that state and local governments are empowered to regulate the location, height, or modification of broadcast transmission facilities to reduce the effects of radio interference. State and local governments may also require environmental, biological, and health studies, engineering studies, or other comparable documentation from any person seeking to build or modify a broadcast transmission facility. In addition, state and local governments may require documentation of compliance with any applicable Federal, State, or local regulation regarding aviation safety standards. Failure to provide such documentation or studies is grounds for a denial to construct or modify a facility.

Section 4(e) defines broadcast transmission facilities.

S. 3103

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 ''Local Control of Cellular Towers Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The placement, construction, and modification of personal wireless services facilities (also known as wireless facilities) near residential communities and facilities such as schools can greatly reduce the value of residential properties, destroy the views from properties, produce radio frequency interference, raise concerns about potential long-term health effects of such facilities, and reduce substantially the desire to live in the areas of such facilities.

(2) States and local governments have traditionally regulated development and should be able to exercise control over the placement, construction, and modification of wireless facilities through the use of zoning and other land use regulations relating to the protection of the environment, public health and safety, and the general welfare of the community and the public.

(3) The Federal Communications Commission establishes policies to govern interstate and international communications by television, radio, wire, satellite and cable. The Commission ensures the compliance of such activities with a variety of Federal laws, including the National Environmental Policy Act of 1969 and the National Historic Preservation Act, in its decision-making on such activities.

(4) Under section 332(c)(7)(A) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(A)), the Commission defers to State and local authorities that regulate the placement, construction, and modification of wireless facilities through the use of zoning and other land use regulations.

(5) Alternative technologies for the placement, construction, and modification of wireless facilities may meet the needs of a wireless services provider in a less intrusive manner than the technologies proposed by the wireless services provider, including the use of small towers that do not require blinking aircraft safety lights, break skylines, or protrude above tree canopies.

(6) It is in the interest of the Nation that the requirements of the Commission with respect to the application of State and local ordinances to the placement, construction and modification of wireless facilities (for example WT Docket No. 97–192, ET Docket No. 93–62, RM–8577, and FCC 97–303, 62 F.R. 47960) be modified so as—

(A) to permit State and local governments to exercise their zoning and other land use authorities to regulate the placement, construction, and modification of such facilities; and

(B) to place the burden of proof in civil actions, and in actions before the Commission and State and local authorities relating to the placement, construction, and modification of such facilities, on the person that seeks to place, construct, or modify such facilities.

(7) PCS-Over-Cable, PCS-Over-Fiber Optic, and satellite telecommunications systems, including Low-Earth Orbit satellites, offer a significant opportunity to provide so-called ''911'' emergency telephone service throughout much of the United States without unduly intruding into or effecting the environment, public health and safety, and the general welfare of the community and the public.

(8) The Federal Aviation Administration must rely upon State and local governments to regulate the placement, construction, and modification of telecommunications facilities near airports or high-volume air traffic areas such as corridors of airspace or commonly used flyways. The proposed rules of the Commission to preempt State and local zoning and other land-use regulations for the siting of such facilities will have a serious negative impact on aviation safety, airport capacity and investment, the efficient use of navigable airspace, public health and safety, and the general welfare of the community and the public.

(9) The telecommunications industry and its experts should be expected to have access to the best and most recent technical information and should therefore be held to the highest standards in terms of their representations, assertions, and promises to governmental authorities.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To repeal certain limitations on State and local authority regarding the placement, construction, and modification of personal wireless services facilities under section 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)).

(2) To permit State and local governments—

(A) to regulate the placement, construction, or modification of personal wireless services facilities with respect to their impacts on land use, including radio frequency interference and radio frequency radiation, in order to protect the environment, public health and safety, and the general welfare of the community and the public;

(B) to regulate the placement, construction, and modification of personal wireless services facilities so that they will not interfere with the safe and efficient use of public airspace or otherwise compromise or endanger the public health and safety and the general welfare of the community and the public; and

(C) to hold accountable applicants for permits for the placement, construction, or modification of personal wireless services facilities, and providers of services using such facilities, for the truthfulness and accuracy of representations and statements placed in the record of hearings for permits, licenses, or approvals for such facilities.

SEC. 3. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF PERSONAL WIRELESS SERVICES FACILITIES

(a) LIMITATIONS ON STATE AND LOCAL REGULATION OF FACILITIES.—Subparagraph (B) of section 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)) is amended—

(1) by striking clause (iv);

(2) by redesignating clause (v) as clause (iv); and

(3) in clause (iv), as so redesignated—

(A) in the first sentence, by striking ''may, within 30 days'' and all that follows through the end of the sentence and inserting ''may commence an action in any court of competent jurisdiction. Such action shall be commenced within 30 days after such action or failure to act unless the State concerned has established a different period for the commencement of such action.''; and

(B) by striking the third sentence and inserting the following: ''In any such action in which a person seeking to place, construct, or modify a personal wireless services facility is a party, such person shall bear the burden of proof, regardless of who commences such action.''.

(b) PROHIBITION ON ADOPTION OF RULE REGARDING RELIEF FROM STATE AND LOCAL REGULATION OF FACILITIES.—Notwithstanding any other provision of law, the Federal Communications Commission shall not adopt as a final rule or otherwise directly or indirectly implement any portion of the proposed rule set forth in ''Procedures for Reviewing Requests for Relief From State and Local Regulation Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934'', WT Docket No. 97-192, released August 25, 1997.

(c) AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF FACILITIES.—Such section 332(c)(7) is further amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

''(C) ADDITIONAL LIMITATIONS.—

''(i) AUTHORITY TO REQUIRE LEAST INTRUSIVE FACILITIES.—

''(I) IN GENERAL.—A State or local government may deny an application to place, construct, or modify personal wireless services facilities on the basis that alternative technologies, delivery systems, or structures are capable of delivering a personal wireless services signal comparable to that proposed to be delivered by such facilities in a manner that is less intrusive to the community concerned than such facilities.

''(II) CONSIDERATIONS.—In determining under subclause (I) the intrusiveness of technologies, delivery systems, or structures for personal wireless services facilities, a State or local government may consider the aesthetics of such technologies, systems, or structures, the environmental impact of such technologies, systems, or structures, and the radio frequency interference or radiation emitted by such technologies, systems, or structures.

''(III) BURDEN OF PROOF.—In any hearing for purposes of the exercise of the authority in subclause (I), the burden shall be on the applicant.

''(ii) RADIO INTERFERENCE.—A State or local government may regulate the location, height, or modification of personal wireless services facilities in order to address the effects of radio frequency interference caused by such facilities on local communities and the public.

''(iii) AUTHORITY TO REQUIRE STUDIES AND DOCUMENTATION.—No provision of this Act may be interpreted to prohibit a State or local government from—

''(I) requiring a person seeking authority to place, construct, or modify personal wireless services facilities to produce—

''(aa) environmental, biological, and health studies, engineering reports, or other documentation of the compliance of such facilities with radio frequency exposure limits, radio frequency interference impacts, and compliance with applicable laws, rules, and regulations governing the effects of such facilities on the environment, public health and safety, and the general welfare of the community and the public; and

''(bb) documentation of the compliance of such facilities with applicable Federal, State, and local aviation safety standards or aviation obstruction standards regarding objects effecting navigable airspace; or

''(II) refusing to grant authority to such person to place, construct, or modify such facilities within the jurisdiction of such government if such person fails to produce studies, reports, or documentation required under subclause (I).

''(iv) CONSTRUCTION.—Nothing in this subparagraph may be construed to prohibit or otherwise limit the authority of a State or local government to ensure compliance with or otherwise enforce any statements, assertions, or representations filed or submitted by or on behalf of an applicant with the State or local government for authority to place, construct, or modify personal wireless

services facilities within the jurisdiction of the State or local government.''.

SECTION-BY-SECTION SUMMARY OF LOCAL CONTROL OF CELLULAR TOWERS ACT

SECTION 1. SHORT TITLE.

The subtitle may be cited as the ''Local Control of Cellular Towers Act.''

SEC. 2. FINDINGS AND PURPOSES.

The bill finds that as the placement of cellular towers can reduce property values, create radio frequency interference, and raise potential long-term health concerns. It also finds that state and local authorities should have the same control to regulate the placement of cellular facilities as they would with any other type of construction. The purpose of the bill is to reinstate the right of state and local governments to regulate the placement, construction, and modification of these facilities.

SEC. 3. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF PERSONAL WIRELESS SERVICES FACILITIES.

This section of the bill amends title 47 of the U.S. Code.

Section 3(a) strikes 47 U.S.C. 332(c)(7), clause iv, which prevented state and local governments from regulating the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions. Clause v of the same section of the Code is amended to allow States to determine the timeline for any appeal of a State or local decision that adversely affects a personal wireless service provider. A personal wireless service provider is no longer allowed to make a further appeal to the Federal Communications Commission (FCC). Furthermore, the bill clarifies that the party that wishes to build a personal wireless service facility bears the burden of proof in any appeal of state or local law.

Section 3(b) prohibits the FCC from implementing ''Procedures for Reviewing Requests for Relief from State and Local Regulation Pursuant to Section 332(c)(7)(B)(v).'' This rule stipulated the procedures for appealing state and local regulations to the FCC.

Section 3(c) adds a new subparagraph (C) to Section 332(c)(7) to give State and local governments the power to deny applications to place, construct, or modify personal wireless service facilities on the basis that less intrusive technologies are available that provide comparable service. Denials can be issued for reasons of aesthetics, environmental impact, radio frequency interference, or radiation emissions.

Section 3(c) also stipulates that state and local governments are empowered to regulate the location, height, or modification of personal wireless service facilities to reduce the effects of radio interference. State and local governments may also require environmental, biological, and health studies, engineering studies, or other comparable documentation from any person seeking to build or modify a personal wireless service facility. In addition, state and local governments may require documentation of compliance with any applicable Federal, State, or local regulation regarding aviation safety standards. Failure to provide such documentation or studies is grounds for a denial to construct or modify a facility.

Mr. JEFFORDS. Mr. President, I would like to rise today to express my support for the Local Control of Cellular Towers Bill, as well as the Local Control of Broadcast Towers Bill. I am pleased to be a cosponsor of these two pieces of legislation and commend my colleague from Vermont, Senator LEAHY, for his continued work on this issue.

The 1996 Telecommunications Act preempts State and local zoning laws, transferring jurisdiction away from State and local authorities to the Federal government. The legislation that we are introducing today would return that jurisdiction to the State and local authorities that are best equipped to make decisions regarding the placement and construction of cellular and broadcast towers.

In Vermont, new development and construction is governed by Act 250, an environmental land use law specifically written to control and manage development, while maintaining a balance between environmental protection and economic growth. Act 250 maintains this equilibrium by placing the permitting rights in the hands of local environmental review boards with appeal rights to the Vermont Environmental Board. Act 250 is therefore administered by men and women who are directly involved in their communities and thoroughly familiar with local concerns.

The state of Vermont established Act 250 in response to a period of unchecked development that began in the 1960's. As the Attorney General for the state at the time, I was one of the primary drafters of the environmental land use law. Since 1969, Act 250 has protected our environment, managed development, and provided a forum for neighbors, municipalities and other interest groups to voice their concerns about new development. I see no reason why the construction of cellular and broadcast towers should not be governed by Act 250 as well, and I remain hopeful that these two bills will reverse what the 1996 Act set forth.

Although I recognize the importance of building a sound and functional wireless network, I urge Congress to allow states and local communities to build that network so the negative impacts of tower construction are kept to a minimum. Among Vermont's greatest assets are its mountain ranges and beautiful views. Giving local communities authority over tower construction and placement is a step towards preserving and protecting those assets.

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

S. 3104. A bill to amend the Marine Mammal Protection Act of 1972 to repeal the long-term goal for reducing to zero the incidental mortality and serious injury of marine mammals in commercial fishing operations, and to modify the goal of take reduction plans for reducing such takings; to the Committee on Commerce, Science, and Transportation.

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

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

S. 3104

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

SECTION 1. MODIFICATION OF GOALS FOR REDUCING INCIDENTAL TAKE OF MARINE MAMMALS IN COMMERCIAL FISHING.

(a) REPEAL OF ZERO MORTALITY GOAL.—Section 118 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1387) is amended by striking subsection (b), and by redesignating subsections (c) through (l) in order as subsections (b) through (k).

(b) CONFORMING AMENDMENTS.—Such Act is further amended as follows:

(1) In section 101(a)(2) (16 U.S.C. 1371(a)(2)) by striking the third sentence.

(2) In section 101(a)(5)(E)(i)(III) (16 U.S.C. 1371(a)(5)(E)(i)(III) by striking ''subsection (d)'' and inserting ''subsection (c)''.

(3) In section 115(b)(4) (16 U.S.C. 1384(b)(4)) by striking ''section 118(f)(1)'' and inserting ''section 118(e)(1)''.

(4) In section 117(a)(4) (16 U.S.C. 1386(a)(4)) in subparagraph (D) by striking '', and an analysis'' and all that follows through the end of the subparagraph and inserting a semicolon.

(5) In section 118 (16 U.S.C. 1387) by striking ''subsection (c)(1)(A) (i)'' each place it appears and inserting ''subsection (b)(1)(A) (i)''.

(6) In section 118 (16 U.S.C. 1387) by striking ''subsection (c)(1)(A)(i)'' each place it appears and inserting ''subsection (b)(1)(A)(i)''.

(7) In section 118(a)(1) (16 U.S.C. 1387(a)(1)) by striking the last sentence.

(8) In section 118(b), as redesignated by this subsection (16 U.S.C. 1387(c)(1)(B)), by striking ''subsection (e)'' each place it appears and inserting ''subsection (d)''.

(9) In section 118(c)(1)(B), as redesignated by this subsection (16 U.S.C. 1387(d)(1)(B)), by striking ''subsection (e)'' and inserting ''subsection (d)''.

(10) In section 118(e)(9)(D), as redesignated by this subsection (16 U.S.C. 1387(f)(9)(D)), by striking ''subsection (d)'' and inserting ''subsection (c)''.

(11) In section 118(f)(1), as redesignated by this subsection (16 U.S.C. 1387(g)(1)), by striking ''subsection (c)(1)(A)(iii)'' each place it appears and inserting ''subsection (b)(1)(A)(iii)''.

(12) In section 118(g), as redesignated by this subsection (16 U.S.C. 1387(h)), by striking ''subsection (c)'' and inserting ''subsection (b)''.

(13) In section 120(j)(2) (16 U.S.C. 1389(j)(2)) by striking ''118(f)(5)(A)'' and inserting ''118(e)(5)(A)''.

(c) MODIFICATION OF GOAL OF TAKE REDUCTION PLANS.—Section 118(e)(2) of such Act, as redesignated by subsection (a) of this section (16 U.S.C. 1387(f)(2)), is amended by striking the last sentence and inserting the following: ''The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of fishing operations taking into account the economics of the fishery, the availability of existing technology, and existing State and regional fishery management plans.''.

By Mr. FRIST (for himself, Mr. DODD, Mr. SANTORUM, Mr. BAYH, Mr. COCHRAN, and Mr. DEWINE):

S. 3105. A bill to amend the Public Health Service Act to provide grants for the operation of enhanced mosquito control programs to prevent and control mosquito-borne diseases; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I rise today to introduce the ''West Nile Virus and Arboviral Disease Act''—a bill to help strengthen our public health system and improved research so that we can better respond to West Nile virus and other arboviruses. I want to thank Senators DODD, SANTORUM, BAYH, COCHRAN, AND DEWINE for their work in helping craft this important legislation.

This year, nearly 3000 Americans have been diagnosed with West Nile Virus, WNV. At least 146 have died. While this virus is transmitted to humans primarily through migratory birds and mosquitoes, recent evidence strongly suggests that WNV can be transmitted through blood transfusions, organ donations, and possibly even breast milk. Further, the latest studies indicate that some patients may experience polio-like symptoms as a result of WNV infection.

WNV first appeared in North America in 1999 with reports of encephalitis in birds, humans and horses. Prior to this summer, there had been only 149 cases and 18 deaths from this virus. Now, WNV has spread as far south as Florida and as far west as California, encompassing areas with warmer climates that will allow a year-round transmission cycle. In three years, we have lost the opportunity to contain the disease to the northeastern region of the United States, where mosquitos do not breed year-round. As a result, many more people will die and become ill.

Clearly, the increasing spread of the disease and these new findings require an enhanced response at the Federal level. We must do more to support State and local public health efforts to combat the spread of West Nile. And we must also intensify research at the federal level to better understand the etiology of the virus, develop improved abatement tools, and prevent the spread of the illness.

The Centers for Disease Control and Prevention, CDC, has published national guidelines for surveillance, prevention and control of WNV. CDC also developed a national electronic surveillance system, ArboNET, to track West Nile in humans, birds, mosquitoes, horses, and other animals. However, the data available to the ArboNET system likely underestimates actual geographic distribution of WNV transmission in the United States because the data are provided by up to 54 ArboNet by local health unit surveillance efforts which vary according to capacity and ability. We need to do more to strengthen the capacity of those surveillance efforts. One only needs to examine the map of the spread of WNV to determine that there may be gaps in our surveillance when some States, like Kansas and West Virginia, are surrounded by other states with similar arbovirus patterns but still not indicating the presence of human disease. One of the peculiarities of great surveillance systems is the increased incidence of disease, simply because better information is being collected.

Although strengthening our surveillance and response capabilities will help, we must also do more to increase the number of appropriately trained entomologists. There is clearly a need for more individuals who can understand the disease vectors, identify their breeding areas, and take action to eliminate the mosquito population before WNV season.

In response to these obvious deficiencies, this legislation establishes a temporary program for the containment of WNV and related arboviral diseases. Through this grant program, which is authorized for two years, but can be extended by the Secretary of Health and Human Services for an additional year, the CDC is authorized to make grants to states. States can use the funds to develop, implement, and evaluate comprehensive, community-based mosquito control plans. Additionally, states can work with local communities to develop and implement programs to support longer term prevention and control efforts, including training to develop a competent public health workforce. Finally, States are encouraged to work with local health entities to develop prevention and control programs.

As part of the requirement under the grant program, the CDC is charged with developing, in consultation with public and private health and mosquito control organizations, guidelines for State and local communities for a sustainable, locally managed, integrated mosquito control programs, as well as otherwise increasing CDC's capacity to provide technical assistance.

We also need to learn more about this virus and how it is spread. To combat WNV, we must develop: 1. improved insecticides; 2. rapid tests for the presence of WNV in human blood products; 3. pathogen inactivation technologies; and 4. additional methodologies to contain the spread of WNV or other related arboviruses, including the development of an appropriate WNV vaccine for humans and other mammals and better antiviral treatments.

In 1972, the FDA banned the general use of the pesticide DDT, ending nearly three decades of application. During which time, the once-popular chemical was used to control insect pests on crop and forest lands, around homes and gardens, and for industrial and commercial purposes. DDT was developed as the first of the modern insecticides early in World War II. It was initially used with great effect to combat malaria, typhus, and the other insect-borne human diseases among both military and civilian populations. A persistent, broad-spectrum compound often termed the ''miracle'' pesticide, DDT came into wide agricultural and commercial usage in this country in the late 1940s, but was banned by the FDA when the Director at that time determined that the continued massive use of DDT posed unacceptable risks of the environment and potential harm to human health. Since that time, we have not developed a replacement for DDT. We have become complacent, assuming that there would be no need to continue to reducing the insect population. We can no longer be complacent.

We have not yet developed a rapid diagnostic WNV test for blood products. There are two types of tests available, a serologic test or a polymerase chain reaction, PCR, test, but only the PCR test would be feasible for screening purposes. Experts have suggested that a new PCR test could be available within 18 months if the appropriate market incentives were in place. We need to determine the best way to expedite the development of this test.

Pathogen inactivation techniques could be used to purify blood samples by removing all DNA and RNA particles from the blood. However, we have not yet performed a larger assessment to determine the overall health benefit of this technique. Because the process relies on adding additional chemicals to the blood product, those chemicals, or derivatives thereof, may have a particular health effect. Therefore, given that there will be other emerging infectious diseases in our future, we need to develop a proactive, not reactive, mode to dealing with those infections.

Currently, scientists have developed an equine vaccine for WNV, but there is no human vaccine. Given the limited vaccine options, many veterinarians are even using the equine vaccine for avians and other mammals. Therefore, we need to focus efforts on developing vaccines for a host of susceptible mammals.

In conducting that research, given the nature of all arboviruses and the fact that WNV also infects a host of mammals, we need to build more bridges between veterinary health and public health. Already, avian experts are asked to assist our public health experts to help identify how bird migration would affect the spread of WNV. Additionally, any new vaccine or diagnostic test for WNV may have broader applicability to the host of other mammals affected by the virus.

Given the multitude of federal agencies that should be involved with relevant research, the legislation charges the President with expanding, intensifying, and enhancing research related to the identification or the development of insecticides, the development of a screening tools for WNV in both blood and organs, the development of pathogen inactivation technologies, technologies that safety and cost-effectively remove RNA and DNA from blood, and the development of additional methodologies for containing the spread of West Nile Virus and other related arboviruses. This research program is authorized for five years.

More should be done to continuously support the development of a capable public health infrastructure and increased response coordination at all levels. At the Federal level, we have

significantly increased our resources for these purpose by providing nearly $1 billion for bioterrorism-related activities, activities which should focus on ''dual use'' capabilities to strengthen our ability to respond to all infectious diseases. However, we need to ensure a continued investment if we are to stabilize our public health infrastructure and continue to focus on means by which to increase coordination.

Again, I want to commend Senators DODD, SANTORUM, BAYH, COCHRAN, and DEWINE for their contributions to the development of this legislation. It has been an honor and a pleasure to work with my distinguished colleagues on this bill, and I look forward to continuing to working with them and others to find better solutions to combating WNV.

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

S. 3106. A bill to amend the Denali Commission Act of 1998 to establish the Denali transportation system in the State of Alaska; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, I rise to introduce a bill to establish the Denali Transportation System for my State of Alaska. I am pleased to be joined by the senior Senator from Alaska, Senator STEVENS, on this important legislation. I understand that a companion measure is to be introduced in the House.

This bill authorizes the Secrtary of Transportation to establish a program to fund the costs of construction of the Denali Transportation System, at a level of $440 million per year for the next 5 years. It is patterned after similar statutory language establishing the Appalachian Commission, which provides for transportation construction in that area of the nation.

As my colleagues are aware, Alaska lags far behind the rest of the country in its transportation infrastructure. Our road system is still in its infancy and our highway system reaches only the major cities of the State.

As we all know, the key to a thriving and self-sufficient economy for any State or Nation is commerce. But commerce itself cannot thrive without transportation. We must be able to travel from one place to another, to move goods from one place to another, to harvest our resources and craft our merchandise and get them both to market.

The Denali transportation system will provide benefits far outweighing its costs, not only to Alaska but to the Nation. It will make it possible to provide Alaska's valuable resources to those who need them. It will allow significant savings for residents of Alaska's remote areas, who today must pay the nation's highest prices for even basic things that you and I take for granted, for food, for energy to heat our houses, for access to a doctor's care when we need it, and access to reasonable educational opportunities for our children.

None of these things are universally available in Alaska as they are in other States. We have children who must board an aircraft every day, at least when the weather permits, just to be flown across a river that separates them from their only area school. We have villages where fuel arrives barrel by barrel, because there is no other way to get it there. We have communities where butter, and eggs, and milk, and fresh vegetables are still luxury items. We have towns where injured workers and pregnant women in need of care have access to a doctor only when the weather permits them to undertake an arduous journey by boat and small aircraft.

Alaska has much to offer the rest of the Nation. We have incomparable resources and energetic, innovative citizens. It is time we have a transportation system that will allow us to fully enter the world of the 21st Century, and this bill will help us accomplish that goal.

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. 3106

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 ''Denali Transportation System Act''.

SEC. 2. DENALI TRANSPORTATION SYSTEM.

The Denali Commission Act of 1998 (Public Law 105–277; 42 U.S.C. 3121 note) is amended—

(1) by redesignating section 309 as section 310; and

(2) by inserting after section 308 the following:

''SEC. 309. DENALI TRANSPORTATION SYSTEM.

''(a) CONSTRUCTION.—

''(1) IN GENERAL.—The Secretary of Transportation shall establish a program under which the Secretary may pay the costs of construction (including the costs of design) in the State of Alaska of the Denali transportation system.

''(2) DESIGN STANDARDS.—Any design carried out under this section shall use technology and design standards determined by the Commission.

''(b) DESIGNATION OF SYSTEM BY COMMISSION.—The Commission shall submit to the Secretary of Transportation—

''(1) designations by the Commission of the general location and termini of highways, port and dock facilities, and trails on the Denali transportation system;

''(2) priorities for construction of segments of the system; and

''(3) other criteria applicable to the program established under this section.

''(c) CONNECTING INFRASTRUCTURE.—In carrying out this section, the Commission may construct marine connections (such as connecting small docks, boat ramps, and port facilities) and other transportation access infrastructure for communities that would otherwise lack access to the National Highway System.

''(d) ADDITION TO NATIONAL HIGHWAY SYSTEM.—On completion, each highway on the Denali transportation system that is not already on the National Highway System shall be added to the National Highway System.

''(e) PREFERENCE TO ALASKA MATERIALS AND PRODUCTS.—In the construction of the Denali transportation system under this section, the Commission may give preference—

''(1) to the use of materials and products indigenous to the State; and

''(2) with respect to construction projects in a region, to local residents and firms headquartered in that region.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Denali Commission Act of 1998 (Public Law 105–277; 42 U.S.C. 3121 note) (as redesignated by section 2(1)) is amended by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated to the Commission—

''(1) to carry out the duties of the Commission under this title (other than section 309), and in accordance with the work plan approved under section 304, such sums as are necessary for fiscal year 2003; and

''(2) to carry out section 309 $440,000,000 for each of fiscal years 2003 through 2008.''.

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

S. 3107. A bill to improve the security of State-issued driver's licenses, enhance highway safety, verify personal identity, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I rise to introduce the Driver's License Fraud Prevention Act. This is a timely bill that would provide much needed Federal assistance to the States to help make their driver's licenses more reliable and secure than they are today. I am pleased that my colleagues, Senator MCCAIN, has joined me in this effort.

Since September 11, 2001, we have learned much about our society. We learned in the most painful way that those aspects of our open society that we, as Americans, value the most, are the very same characteristics exploited by people who hate freedom.

Our open borders welcome millions of visitors and immigrants each year. Our civil society is based on the integrity of our citizens to self regulate their behaviors and to abide by the rule of law. And our very informal system of personal identification relies on the honesty of people to represent themselves as who they are, and to not hide their true identities.

Yet, after September 11, we learned that it was the very openness of our society that the nineteen terrorists took advantage of by slipping into our country and mingling among us for months before embarking on their evil tasks.

Since that tragic day, as a price for enhancing national security, we have imposed numerous measures across the country, including erecting barricades in front of buildings and requiring tougher screenings at airports. But there is one area that we need further improvements on, which is what our bill would address.

It seems that everywhere we turn today, we are asked to present photo identification. And what is the most common identification that we show? It's the State-issued driver's license.

The purpose of the driver's license has changed dramatically over the years. The driver's license was originally created by States for a public safety purpose, to permit a qualified person to operate a motor vehicle. Today, however, the license has become the most widely-used form of identification that is accepted by a wide variety of private and public entities. In an April 2002 poll conducted by Public Opinion Strategies, 83 percent of the American public noted that they used their driver's license for purposes other than driving.

A driver's license has undoubtedly become a key that can open many doors, yet the current framework that States rely on in issued licenses was not designed for the cards to be used for identification purposes. Today, the 50 States follow 50 different methods for verifying a person's identification when they process driver's license applications. They apply different standards for defining what the acceptable documentation are that they require from applicants.

Additionally, the level of security in the driver's licenses and identification cards varies widely, from those states that incorporate high tech biometric identifiers to ones that are simply laminated. In fact, law enforcement officials estimate that there are more than 240 different formats of valid driver's licenses in circulation today.

Because of the disparity in the State issuance processes and the varying degrees of security of the cards themselves, it is extremely easy for individuals today to abuse the system by shopping around for licenses in those States with the weakest practices.

Earlier this year, I chaired a hearing in the Governmental Affairs Subcommittee on Oversight of Government Management, where we learned that eighteen of the nineteen hijackers involved in the September 11th attacks probably used State-issued driver's licenses or identification cards to board those doomed airplanes.

We also learned that these terrorists specifically went to motor vehicle agencies in States that, at that time, employed some of the most lenient processes and requirements in issuing licenses and identification cards.

For example, on August 1, 2001, two of the terrorists, Hani Hanjour and Khalid Al-Mihdhar, drove a van from New Jersey to the Virginia Department of Motor Vehicles, DMV, office in Arlington. In the parking lot, they asked around until they found someone willing to lie and vouch for their Virginia residency. They met Luis Martinez-Flores and Herbert Villalobos who, for a price, were willing to help.

Hanjour and Al-Mihdhar paid these strangers $50 each and received notarized forms which claimed that the two transients were in fact Virginia residents. Using these fake documents, Hanjour and Al-Mihdhar walked into the DMV, stood in line, had their photos taken, and walked out with authentic State-issued Virginia photo identification cards.

The next day, on August 2, 2001, Hanjour and Al-Mihdhar returned to the same Arlington DMV with two other September 11 terrorists, Salem Al-Hazmi and Majed Moqed. Hanjour and Al-Mihdhar helped Al-Hazmi and Moqed obtain Virginia identification cards of their own by vouching that they lived together in Virginia.

On the same day, two more terrorists, Abdul Al-Omari and Ahmed Al-Ghamdi, who were renting a room at a Maryland motel, contacted Kenys Galicia, a Virginia legal secretary and notary public, through a referral from Luis Martinez-Flores, the same person who was loitering near the Arlington DMV the day before.

Al-Omari and Al-Ghamdi paid Galicia to have her prepare false notarized affidavits stating that the two men lived in Virginia. Using these fake documents, these two also went to a Virginia motor vehicles office and received State-issued identification cards.

In addition to exploiting the lax Virginia system, at least thirteen of the nineteen terrorists held driver licenses or identification cards from Florida, a State that, at that time, did not require proof of residency from applicants.

A few of the September 11 terrorists held licenses or identification cards from more than one State, including from California, Arizona, and Maryland, while only one did not appear to hold any form of American-issued identification. Some received duplicate cards from the same State within months of September.

Some of them used these licenses to rent automobiles and check into motels, which provided them with constant mobility. Others used licenses as identification to receive wire transferred funds and to register for flight schools.

Yet had they not held these valuable commodities, would they have been successful in carrying out their evil final acts?

At the Governmental Affairs Subcommittee hearing, we heard testimony from a Maryland police chief that, just two days before September 11th, Ziad Jarrah, one of the terrorists, was stopped for speeding on Interstate 95, north of Baltimore. During this traffic stop, Jarrah produced an apparently valid driver's license from the State of Virginia, and as a result, the stop proceeded in a typical fashion.

However, while Jarrah's license indicated a resident address in Virginia, Jarrah was in fact resting overnights at motels along the way to Newark, New Jersey, from where he boarded Flight 93, which ultimately crashed in Pennsylvania. Had he been unable to produce a license when he was pulled over, or if he had produced a license that the trooper could have identified as having been issued fraudulently, who knows how that stop may have concluded.

What we do know is that these terrorists bought their way into our shaky, unreliable, and dangerous system of government-issued identification. With the identification cards that they obtained under phony pretenses, doors opened across America, including the doors of the four doomed aircrafts on the morning of September 11, 2001.

More troubling is that it appears what the terrorists did in obtaining the multiple identification cards was a part of an official strategic plan that terrorists employ as they seek to infiltrate our society.

Last year, Attorney General Ashcroft presented to the Senate Judiciary Committee, on which I serve, a copy of an Al Qaeda Terrorists Manual that was found by Manchester, England, police officials during the search of an Al Qaeda member's home.

Contained in it is a page that reads as follows:

FORGED DOCUMENTS (IDENTITY CARDS, RECORD BOOKS, PASSPORTS)

The following security precautions should be taken:

* * * * *

2. All documents of the undercover brother, such as identity cards and passport, should be falsified.

3. When the undercover brother is traveling with a certain identity card or passport, he should know all pertinent [information] such as the name, profession, and place of residence.

* * * * *

5. The photograph of the brother in these documents should be without a beard. It is preferable that the brother's public photograph [on these documents] be also without a beard. If he already has one [document] showing a photograph with a beard, he should replace it.

6. When using an identity document in different names, no more than one such document should be carried at one time.

* * * * *

It is obvious to me that the September 11 terrorists were trained very well by Al Qaeda. They followed these instructions flawlessly as they sought, and successfully obtained, multiple State-issued driver's licenses and identification cards in America.

The use of fake IDs is one of the oldest tricks in the book for criminals, and now we know that this is a page in the book for terrorists as well.

It is also one of the oldest traditions of adolescence, and a rite of passage for many teenagers who casually use a borrowed or tampered ID to buy alcohol or tobacco products, or to get into a nightclub. But underage drinking not only endangers the lives of those consuming the alcohol, it threatens the lives of others as well.

According to a 2001 survey by the Substance Abuse and Mental Health Services Administration, SAMHSA, more than 10 million individuals aged between 12 to 20 years old reported consuming alcohol in the year prior to the survey. The National Highway Traffic Safety Administration, NHTSA, reports that in the United States, drivers between the ages of 16 and 21 account

for just seven percent of all drivers in the Nation, yet are involved in fifteen percent of all alcohol-related fatalities.

Drunk drivers are perhaps the most dangerous drivers on the road. But there are others who should not be allowed on the road.

We learned that thousands of drivers each year operate motor vehicles using multiple licenses issued under different identities from multiple states, which enable them to evade enforcement of driving restrictions imposed on them.

They know that under the current license issuance process, no State checks the background of license applicants with its sister States to see if that person may have already been issued a license by another State. So it is quite easy for individuals who have had their license suspended or revoked in one State to travel to a neighboring State and acquire a new license.

A reprentative of the American Association of Motor Vehicle Administrators, AAMVA, who testified at our hearing stated it this way: ''Although the current system allows for reciprocity among the States, it lacks uniformity. Individuals looking to undermine the system, whether it is a terrorist, a drunk driver or an identity thief, shop around for licenses in those States that have become the weakest link.''

AAMVA is a nonprofit voluntary association representing all motor vehicle agency administrators and chief law enforcement officials throughout the United States and Canada.

At the hearing, we also heard from a representative of the National Governors Association, NGA, who testified that the NGA has not yet developed an official position on the subject of identity security or enhancing the driver's license systems.

However, he acknowledged that the current system employed by States is broken, and is more likely to actually enable identity theft and fraud rather than prevent it.

He and others on the panel referenced several initiatives that some states were currently undertaking to improve their driver's license systems. For example, Virginia and Florida adopted revised procedures since last year to prevent the types of abuses we all recognized since September 11. And many other State legislatures have adopted, and are still in the process of debating, various reform measures, which, I believe, are all steps in the right direction.

I was especially encouraged to hear that the states were willing and ready to work with the Federal Government to address their problem together.

At our hearing, the AAMVA representative also testified that:

Seventy-seven percent of the American public support Congress passing legislation to modify the driver's licensing process and identification security. And, we need Congress to help in five areas: (1) support minimum compliance standards and requirements that each state must adopt when issuing a license; (2) help us identify fraudulent documents; (3) support an interstate network for confirming a person's driving history; (4) impose stiffer penalties on those committing fraudulent acts; (5) and, provide funding to make this happen. Funding so states can help ensure a safer America.

Thus, following this hearing, I reached out to, and worked with a number of groups and individuals representing States, motor vehicle agencies, privacy advocates, immigrant communities, and the technology industry, to consider an appropriate federal legislation on this issue.

We also reached out to various agencies in the Bush Administration, including the Office of Homeland Security, to seek their input on legislation.

Then, in July of this year, President Bush unveiled his ''National Strategy for Homeland Security.'' In that report the President wrote:

MAJOR INITIATIVES (STATE)

Given the states' major role in homeland security, and consistent with the principles of federalism inherent to American government, the following initiatives constitute suggestions, not mandates, for state initiatives.

Coordinate suggested minimum standards for state driver's licenses. The licensing of drivers by the 50 states, the District of Columbia, and the United States terrorities varies widely. There is no national or agreed upon state standards for content, format, or license acquisition procedures. Terrorist organizations, including Al-Qaeda operatives involved in the September 11 attacks, have exploited these differences. While the issuance of drivers' licenses fall squarely within the powers of the states, the federal government can assist the states in crafting solutions to curtail the future abuse of drivers' licenses by terrorist organizations. Therefore, the federal government, in consultation with state government agencies and non-governmental organizations, should support state-led efforts to develop suggested minimum standards for driver's licenses, recognizing that many states should and will exceed these standards.

I fully agree with the President that the issuance of driver's licenses is within the province of the States. In fact, our bill explicitly recognizes and preserves the right of states to determine the qualification or eligibility for obtaining driver's licenses, the terms of its validity, and how the license should look.

But I also agree with the President that there is an important role for the Federal Government to play in assisting the states to address the national problem of fraud and abuse. I therefore believe this bill that we are introducing today strikes an appropriate balance between the states' authority and federal interests.

Our bill is narrowly drafted to improve the process by which licenses are issued. First, I note that there are two already existing federal programs that address driver's licenses.

The National Driver Register, NDR, which was first created by Congress in 1960 and revised in 1982, serves as a central file of state reports on drivers whose licenses have been suspended, revoked, canceled, or denied, or who have been convicted of serious traffic-related offenses. The NDR's primary purpose is to enable State motor vehicle agencies to share driver record information with each other so that they can make informed decisions about issuing driver's licenses to individuals, particularly those who move into their states from other jurisdictions.

The Commercial Driver License Information System is the second Federal program, which was established by Congress in 1986, to keep problem commercial drivers off the roads, and to prevent traffic violations from being hidden behind multiple licenses.

Every State today participates in both federal programs, and all States currently share certain information with each other in order to make informed decisions before issuing driver's licenses. However, the current limited scope of these programs leave a gaping loophole: One deals only with records of problem drivers, while the other deals only with records of commercial drivers. What about the records of non-problem drivers who are not commercial drivers?

Our bill closes this loophole by consolidating the appropriate functionalities of these two programs and by adding new security measures that would allow every State to check all other States' records of all drivers before issuing commercial or regular driver's licenses. This new process will help prevent States from issuing more than one license to any one individual, which will end forum shopping, abuse, and fraud.

In recognizing the federal responsibilities of this program, our bill would provide Federal funding for the upgrades as well as direct Federal funding to states to assist their continued participating in the new integrated system.

While the goals of the bill are specific and firm, we are also mindful of the jurisdiction of the states to regulate who is eligible to receive driver's licenses, and what the licenses should look like. We thus provide authority to the Secretary of Transportation to engage in a negotiated rulemaking which would include all the appropriate affected entities and individuals, in order to collectively develop the required minimum standards on the issuance process.

This program can be successful only if every state participates enthusiastically. Therefore, to provide maximum input from the states, the bill specifically requires that the Secretary consult with the states and entities representing the interest of the states, and, as necessary, with interested groups and individuals in developing consensus implementing regulations.

I should note, as the White House has, that many States should and will exceed these minimum standards set forth in this bill. So for states that are already above the curve, our bill provides federal grants to highlight innovative pilot programs designed to verify driver's identity, prevent fraud,

or demonstrate the use of technology to create tamper resistant licenses.

Our bill also requires States to make their driver's licenses and identification cards more resistant to tampering, altering, or counterfeiting then they are today. But, again, the bill does not specify what those security features ought to be. Instead, it requires the Secretary of Transportation to engage in rulemaking with the States and with experts to collectively develop the required minimum standards for all states to adopt.

The bill also cracks down on internal fraud and bribery that, unfortunately, occur behind the DMV counters. We impose tough penalties for unauthorized access to or use of DMV equipment used to manufacture licenses, and also creates penalties for persons who fraudulently issue, obtain, renew, or transfer a driver's license. The bill also requires States to conduct internal audits of license issuance processes to identify and address these fraudulent activities.

Finally, our bill enhances privacy protection for license holders by significantly strengthening the Driver's Privacy Protection Act, which Congress last amended in 1994. The bill protects the privacy of driver's information by expanding the definitions of sensitive ''personal information'' and by tightening up the current set of permissible disclosures.

Additionally, under this bill, State motor vehicle agencies would be prohibited from disclosing or displaying social security numbers on any driver's license, motor vehicle registration, or any other document issued for the purpose of identification.

With Federal financial and technical assistance and a narrowly tailored common-sense approach, I believe this bill can close the loopholes that continue to leave all of us vulnerable. By working together, we can assist states to adopt a new system that will ensure integrity in the issuance process, integrity in the cards themselves, and protection of privacy of drivers across the country. I urge my colleagues to support this important bill.

By Ms. COLLINS:

S. 3110. A bill to require further study before amendment 13 to the Northeast Multispecies (Groundfish) Management Plan is implemented; to the Committee on Commerce, Science, and Transportation.

Ms. COLLINS. Mr. President, I rise today to introduce the Fisheries Management Fairness Act in order to provide New England fishermen with a guarantee that the fisheries management decisions that affect their lives will not be made without the benefit of sound, reliable data.

Fishing is more than just a profession in New England. Fishing is a way of life. This way of life is being threatened, however, by excessive regulations and unnecessary litigation. Despite scientific evidence of a rebound in fish stocks, fishermen are suffering under ever more burdensome restrictions. As a result of recent litigation, fishermen have seen their days at sea slashed, struggle to implement new gear changes, and are squeezed into ever smaller fishing areas.

Everyday, I hear from fishermen who struggle to support their families because they have been deprived of their right to make an honest living on the seas. The ''working waterfronts'' of our communities are in danger of disappearing, likely to be replaced by tourism and development. Once the culture of fishing is lost, it will be all but impossible ti replace.

On September 11, 2002, the National Marine Fisheries Service announced that the trawler gear used on the NOAA research vessel Albatross IV had been calibrated incorrectly, casting suspicion over the data it had collected since February of 2000. The miscalibrated gear had been used to conduct the last eight stock abundance surveys, which measure long-term increases and decreases in stock populations.

Data gathered by these surveys are the basis for regulations in fisheries management plans governing the rebuilding of overfished stocks. These regulations take the form of ''amendments'' to the New England's overall groundfish management plan, covering a complex of thirteen groundfish species. Amendment 13, the next set of regulations, is supposed to be ready for implementation by August 22, 2003.

Although the National Marine Fisheries Service has conducted an observation cruise and a performance review workshop with industry to examine the extent of the damage in the survey, the agency has concluded that additional research is required to determine the full extent of the damage caused by the flawed gear. The Service has pledged to conduct a ''short-term experiment'' to determine the extent of the damage to the survey. This short-term experiment will rely on video and sensor equipment to gather data, and a subsequent workshop to examine the data and produce a report that can be used in updating groundfish assessments.

It is unlikely that this experiment will provide the quality of data necessary to develop Amendment 13 by its court-ordered deadline. The type of data necessary to develop fisheries management plans can be produced only after years of research that demonstrate long-term stock trends. Theoretical modeling of past data of questionable quality is simply not good enough to develop the regulations of a plan that will affect the survival of our fishermen.

When fishermen's livelihoods depend on the quality of survey data, we owe it to them to get the data collection right. There is no room for second-rate science and faulty data.

My bill addresses these problems by preventing Amendment 13 from being implemented for two years, enough time to allow the Northeast Fishery Science Center and the National Marine Fishery Center to determine the reliability of the data collected by the Albatross IV and to collect accurate data on which to base future amendments.

I will not stand idly by and let New England's fishing community die without a fight. I pledge to work with my colleagues in the Senate to work to pass this legislation. If we cannot pass it as a rider to another bill during this session, then I plan to reintroduce it and fight for its passage when we reconvene next year.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 338—DESIGNATING THE MONTH OF OCTOBER, 2002, AS ''CHILDREN'S INTERNET SAFETY MONTH''

Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. BREAUX, Mrs. HUTCHISON, Mr. ALLEN, Mr. CLELAND, Mr. BROWNBACK, Mr. CRAIG, Mrs. CLINTON, Ms. CANTWELL, Mr. DURBIN, Mr. EDWARDS, Mr. DODD, Mr. KERRY, Mr. BUNNING, Mr. HATCH, Mr. BENNETT, Mr. HUTCHINSON, and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 338

Whereas the Internet is one of the most effective tools available for purposes of education and research and gives children the means to make friends and freely communicate with peers and family anywhere in the world;

Whereas the new era of instant communication holds great promise for achieving better understanding of the world and providing the opportunity for creative inquiry;

Whereas it is vital to the well-being of children that the Internet offer an open and responsible environment to explore;

Whereas access to objectionable material, such as violent, obscene, or sexually explicit adult material may be received by a minor in unsolicited form;

Whereas there is a growing concern in all levels of society to protect children from objectionable material; and

Whereas the Internet is a positive educational tool and should be seen in such a manner rather than as a vehicle for entities to make objectionable materials available to children: Now, therefore, be it

Resolved, That the Senate

(1) designates October, 2002, as ''Children's Internet Safety Month'' and supports its official status on the Nation's promotional calendar; and

(2) supports parents and guardians in promoting the creative development of children by encouraging the use of the Internet in a safe, positive manner.

SENATE RESOLUTION 339—DESIGNATING NOVEMBER 2002, AS ''NATIONAL RUNAWAY PREVENTION MONTH''

Mrs. MURRAY (for herself and Ms. COLLINS) submitted the following resolution; which was referred to the Committee on the Judiciary: