ROBERTS) was added as a cosponsor of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1083

At the request of Mr. LUGAR, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 1083, a bill to give States the flexibility to reduce bureaucracy by streamlining enrollment processes for the medicaid and State children's health insurance programs through better linkages with programs providing nutrition and related assistance to low-income families.

S. 1177

At the request of Mr. KOHL, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1177, a bill to ensure the collection of all cigarette taxes, and for other purposes.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1394

At the request of Mr. HARKIN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1394, a bill to establish a demonstration project under the medicaid program to encourage the provision of community-based services to individuals with disabilities.

S. 1431

At the request of Mr. LAUTENBERG, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1531

At the request of Mr. HATCH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1531, a bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

S. 1545

At the request of Mr. HATCH, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1629

At the request of Mr. DEWINE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1629, a bill to improve the palliative and end-of-life care provided to children with life-threatening conditions, and for other purposes.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

S. 1634

At the request of Mr. BIDEN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1634, a bill to provide funds for the security and stabilization of Iraq by suspending a portion of the reductions in the highest income tax rate for individual taxpayers.

S. 1670

At the request of Mr. DAYTON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1670, a bill to expand the Rest and Recuperation Leave program for members of the Armed Forces serving in the Iraqi theater of operations in support of Operation Iraqi Freedom to include travel and transportation to the members' permanent station or home.

S. 1683

At the request of Mr. VOINOVICH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1683, a bill to provide for a report on the parity of pay and benefits among Federal law enforcement officers and to establish an exchange program between Federal law enforcement employees and State and local law enforcement employees.

S. 1686

At the request of Mr. GRASSLEY, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1686, a bill to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

S. CON. RES. 67

At the request of Mr. COCHRAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Con. Res. 67, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and supporting the designation of a National Brain Injury Awareness Month.

S. RES. 231

At the request of Mr. FEINGOLD, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Res. 231, a resolution commending the Government and people of Kenya.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself, Mr. GRASSLEY, Mr. KENNEDY, and Mr. LIEBERMAN):

S. 1691. A bill to establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I introduce the Wartime Treatment Study Act. This bill would create two fact-finding commissions: one commission to review the U.S. Government's treatment of German Americans, Italian Americans, and European Latin Americans during World War II and another commission to review the U.S. Government's treatment of Jewish refugees fleeing Nazi persecution during World War II. This bill is long overdue.

I am very pleased that my distinguished colleagues, Senators GRASSLEY, KENNEDY, and LIEBERMAN, have joined me as cosponsors of this important bill. I thank them for their support.

The Allied victory in the Second World War was an American triumph, a triumph for freedom, justice, and human rights. The courage displayed by so many Americans, of all ethnic origins, should be a source of great pride for all Americans.

But, as so many brave Americans fought against enemies in Europe and the Pacific, here, at home, the U.S. Government was curtailing the freedom of some of its own people. While, it is, of course, the right of every nation to protect itself during wartime, the U.S. Government must respect the basic freedoms for which so many Americans have given their lives to defend. War tests our principles and our values. And as our Nation's recent experience has shown, it is during times of war and conflict, when our fears are high and our principles are tested most, that we must be even more vigilant to guard against violations of the Constitution.

Many Americans are aware of the fact that, during World War II, under the authority of Executive Order 9066, our Government forced more than 100,000 ethnic Japanese from their homes into internment camps. Japanese Americans were forced to leave their homes, their livelihoods, and their communities and were held behind barbed wire and military guard by their own government. Through the work of the Commission on Wartime Relocation and Internment of Civilians created by Congress in 1980, this shameful event finally received the official acknowledgement and condemnation it deserved. Under the Civil Liberties Act of 1988, people of Japanese ancestry who were subjected to relocation or internment later received an apology and reparations on behalf of the people of the United States.

While I commend our Government for finally recognizing and apologizing for the mistreatment of Japanese Americans during World War II, I believe that it is time that the government also acknowledge the mistreatment experienced by many German Americans,

Italian Americans, and European Latin Americans, as well as Jewish refugees.

The Wartime Treatment Study Act would create two independent, fact-finding commissions to review this unfortunate history, so that Americans can understand why it happened and work to ensure that it never happens again. One commission will review the treatment by the U.S. Government of German Americans, Italian Americans, and other European Americans, as well as European Latin Americans, during World War II.

I believe that most Americans are unaware that, as was the case with Japanese Americans, approximately 11,000 ethnic Germans, 3,200 ethnic Italians, and scores of Bulgarians, Hungarians, Romanians or other European Americans living in America were taken from their homes and placed in internment camps during World War II. We must learn from our history and explore why we turned on our fellow Americans and failed to protect basic freedoms.

A second commission created by this bill will review the treatment by the U.S. Government of Jewish refugees who were fleeing Nazi persecution and genocide. We must review the facts and determine how our restrictive immigration policies failed to provide adequate safe harbor to Jewish refugees fleeing the persecution of Nazi Germany. The United States turned away thousands of refugees, delivering many refugees to their deaths at the hands of the Nazi regime.

As I mentioned earlier, there has been a measure of justice for Japanese Americans who were denied their liberty and property. It is now time for the U.S. Government to complete an accounting of this period in our Nation's history. It is time to create independent, fact-finding commissions to conduct a full and through review of the treatment of all European Americans, European Latin Americans, and Jewish refugees during World War II.

Up to this point, there has been no justice for the thousands of German Americans, Italian Americans, and other European Americans who were branded ''enemy aliens'' and then taken from their homes, subjected to curfews, limited in their travel, deprived of their personal property, and, in the worst cases, placed in internment camps.

There has been no justice for European Latin Americans who were shipped to the United States and sometimes repatriated or deported to hostile, war-torn European Axis powers, often in exchange for Americans being held in those countries.

Finally, there has been no justice for the thousands of Jews, like those aboard the German vessel the *St Louis*, who sought refuge from hostile Nazi treatment but were callously turned away at America's shores.

Although the injustices to European Americans, European Latin Americans, and Jewish refugees occurred fifty years ago, it is never too late for Americans to learn from these tragedies. We should never allow this part of our nation's history to repeat itself. And, while we should be proud of our Nation's triumph in World War II, we should not let that justifiable pride blind us to the treatment of some Americans by their own government.

I urge my colleagues to join me in supporting the Wartime Treatment study Act. It is time for a full accounting of this tragic chapter in our Nation's history.

I ask that the text of the Wartime Treatment Study Act be printed in the RECORD.

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

S. 1691

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 ''Wartime Treatment Study Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) During World War II, the United States successfully fought the spread of Nazism and fascism by Germany, Italy, and Japan.

(2) Nazi Germany persecuted and engaged in genocide against Jews and certain other groups. By the end of the war, 6,000,000 Jews had perished at the hands of Nazi Germany. United States Government policies, however, restricted entry to the United States to Jewish and other refugees who sought safety from Nazi persecution.

(3) While we were at war, the United States treated the Japanese American, German American, and Italian American communities as suspect.

(4) The United States Government should conduct an independent review to assess fully and acknowledge these actions. Congress has previously reviewed the United States Government's wartime treatment of Japanese Americans through the Commission on Wartime Relocation and Internment of Civilians. An independent review of the treatment of German Americans and Italian Americans and of Jewish refugees fleeing persecution and genocide has not yet been undertaken.

(5) During World War II, the United States Government branded as ''enemy aliens'' more than 600,000 Italian-born and 300,000 German-born United States resident aliens and their families and required them to carry Certificates of Identification, limited their travel, and seized their personal property. At that time, these groups were the two largest foreign-born groups in the United States.

(6) During World War II, the United States Government arrested, interned or otherwise detained thousands of European Americans, some remaining in custody for years after cessation of World War II hostilities, and repatriated, exchanged, or deported European Americans, including American-born children, to hostile, war-torn European Axis nations, many to be exchanged for Americans held in those nations.

(7) Pursuant to a policy coordinated by the United States with Latin American countries, many European Latin Americans, including German and Austrian Jews, were captured, shipped to the United States and interned. Many were later expatriated, repatriated or deported to hostile, war-torn European Axis nations during World War II, most to be exchanged for Americans and Latin Americans held in those nations.

(8) Millions of European Americans served in the armed forces and thousands sacrificed their lives in defense of the United States.

(9) The wartime policies of the United States Government were devastating to the Italian Americans and German American communities, individuals and their families. The detrimental effects are still being experienced.

(10) Prior to and during World War II, the United States restricted the entry of Jewish refugees who were fleeing persecution and sought safety in the United States. During the 1930's and 1940's, the quota system, immigration regulations, visa requirements, and the time required to process visa applications affected the number of Jewish refugees, particularly those from Germany and Austria, who could gain admittance to the United States.

(11) Time is of the essence for the establishment of commissions, because of the increasing danger of destruction and loss of relevant documents, the advanced age of potential witnesses and, most importantly, the advanced age of those affected by the United States Government's policies. Many who suffered have already passed away and will never know of this effort.

SEC. 3. DEFINITIONS.

In this Act:

(1) DURING WORLD WAR II.—The term ''during World War II'' refers to the period between September 1, 1939, through December 31, 1948.

(2) EUROPEAN AMERICANS.—

(A) IN GENERAL.—The term ''European Americans'' refers to United States citizens and permanent resident aliens of European ancestry, including Italian Americans, German Americans, Hungarian Americans, Romanian Americans, and Bulgarian Americans.

(B) ITALIAN AMERICANS.—The term ''Italian Americans'' refers to United States citizens and permanent resident aliens of Italian ancestry.

(C) GERMAN AMERICANS.—The term ''German Americans'' refers to United States citizens and permanent resident aliens of German ancestry.

(3) EUROPEAN LATIN AMERICANS.—The term ''European Latin Americans'' refers to persons of European ancestry, including Italian or German ancestry, residing in a Latin American nation during World War II.

TITLE I—COMMISSION ON WARTIME TREATMENT OF EUROPEAN AMERICANS

SEC. 101. ESTABLISHMENT OF COMMISSION ON WARTIME TREATMENT OF EUROPEAN AMERICANS.

(a) IN GENERAL.—There is established the Commission on Wartime Treatment of European Americans (referred to in this title as the ''European American Commission'').

(b) MEMBERSHIP.—The European American Commission shall be composed of 7 members, who shall be appointed not later than 90 days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives, in consultation with the minority leader.

(3) Two members shall be appointed by the majority leader of the Senate, in consultation with the minority leader.

(c) TERMS.—The term of office for members shall be for the life of the European American Commission. A vacancy in the European American Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) REPRESENTATION.—The European American Commission shall include 2 members representing the interests of Italian Americans and 2 members representing the interests of German Americans.

(e) MEETINGS.—The President shall call the first meeting of the European American Commission not later than 120 days after the date of enactment of this Act.

(f) QUORUM.—Four members of the European American Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The European American Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the European American Commission.

(h) COMPENSATION.—

(1) IN GENERAL.—Members of the European American Commission shall serve without pay.

(2) REIMBURSEMENT OF EXPENSES.—All members of the European American Commission shall be reimbursed for reasonable travel and subsistence, and other reasonable and necessary expenses incurred by them in the performance of their duties.

SEC. 102. DUTIES OF THE EUROPEAN AMERICAN COMMISSION.

(a) IN GENERAL.—It shall be the duty of the European American Commission to review the United States Government's wartime treatment of European Americans and European Latin Americans as provided in subsection (b).

(b) SCOPE OF REVIEW.—The European American Commission's review shall include the following:

(1) A comprehensive review of the facts and circumstances surrounding United States Government actions during World War II that violated the civil liberties of European Americans and European Latin Americans pursuant to the Alien Enemies Acts (50 U.S.C. 21–24), Presidential Proclamations 2526, 2527, 2655, 2662, Executive Orders 9066 and 9095, and any directive of the United States Government pursuant to such law, proclamations, or executive orders respecting the registration, arrest, exclusion, internment, exchange, or deportment of European Americans and European Latin Americans. This review shall include an assessment of the underlying rationale of the United States Government's decision to develop related programs and policies, the information the United States Government received or acquired suggesting the related programs and policies were necessary, the perceived benefit of enacting such programs and policies, and the immediate and long-term impact of such programs and policies on European Americans and European Latin Americans and their communities.

(2) A review of United States Government action with respect to European Americans pursuant to the Alien Enemies Acts (50 U.S.C. 21–24) and Executive Order 9066 during World War II, including registration requirements, travel and property restrictions, establishment of restricted areas, raids, arrests, internment, exclusion, policies relating to the families and property that excludees and internees were forced to abandon, internee employment by American companies (including a list of such companies and the terms and type of employment), exchange, repatriation, and deportment, and the immediate and long-term effect of such actions, particularly internment, on the lives of those affected. This review shall include a list of all temporary detention and long-term internment facilities.

(3) A brief review of the participation by European Americans in the United States Armed Forces including the participation of European Americans whose families were excluded, interned, repatriated, or exchanged.

(4) A recommendation of appropriate remedies, including how civil liberties can be better protected during war, or an actual, attempted, or threatened invasion or incursion, an assessment of the continued viability of the Alien Enemies Acts (50 U.S.C. 21–24), and public education programs related to the United States Government's wartime treatment of European Americans and European Latin Americans during World War II.

(c) FIELD HEARINGS.—The European American Commission shall hold public hearings in such cities of the United States as it deems appropriate.

(d) REPORT.—The European American Commission shall submit a written report of its findings and recommendations to Congress not later than 18 months after the date of the first meeting called pursuant to section 101(e).

SEC. 103. POWERS OF THE EUROPEAN AMERICAN COMMISSION.

(a) IN GENERAL.—The European American Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The European American Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) GOVERNMENT INFORMATION AND COOPERATION.—The European American Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information that the European American Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the European American Commission and furnish all information requested by the European American Commission to the extent permitted by law, including information collected as a result of Public Law 96–317 and Public Law 106–451. For purposes of the Privacy Act (5 U.S.C. 552a(b)(9)), the European American Commission shall be deemed to be a committee of jurisdiction.

SEC. 104. ADMINISTRATIVE PROVISIONS.

The European American Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–15 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) obtain the detail of any Federal Government employee, and such detail shall be without reimbursement or interruption or loss of civil service status or privilege;

(4) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(5) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(6) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

From funds currently authorized to the Department of Justice, there are authorized to be appropriated not to exceed $500,000 to carry out the purposes of this title.

SEC. 106. SUNSET.

The European American Commission shall terminate 60 days after it submits its report to Congress.

TITLE II—COMMISSION ON WARTIME TREATMENT OF JEWISH REFUGEES

SEC. 201. ESTABLISHMENT OF COMMISSION ON WARTIME TREATMENT OF JEWISH REFUGEES.

(a) IN GENERAL.—There is established the Commission on Wartime Treatment of Jewish Refugees (referred to in this title as the ''Jewish Refugee Commission'').

(b) MEMBERSHIP.—The Jewish Refugee Commission shall be composed of 7 members, who shall be appointed not later than 90 days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader.

(3) Two members shall be appointed by the Majority Leader of the Senate, in consultation with the minority leader.

(c) TERMS.—The term of office for members shall be for the life of the Jewish Refugee Commission. A vacancy in the Jewish Refugee Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) REPRESENTATION.—The Jewish Refugee Commission shall include 2 members representing the interests of Jewish refugees.

(e) MEETINGS.—The President shall call the first meeting of the Jewish Refugee Commission not later than 120 days after the date of enactment of this Act.

(f) QUORUM.—Four members of the Jewish Refugee Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The Jewish Refugee Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Jewish Refugee Commission.

(h) COMPENSATION.—

(1) IN GENERAL.—Members of the Jewish Refugee Commission shall serve without pay.

(2) REIMBURSEMENT OF EXPENSES.—All members of the Jewish Refugee Commission shall be reimbursed for reasonable travel and subsistence, and other reasonable and necessary expenses incurred by them in the performance of their duties.

SEC. 202. DUTIES OF THE JEWISH REFUGEE COMMISSION.

(a) IN GENERAL.—It shall be the duty of the Jewish Refugee Commission to review the United States Government's refusal to allow Jewish and other refugees fleeing persecution in Europe entry to the United States as provided in subsection (b).

(b) SCOPE OF REVIEW.—The Jewish Refugee Commission's review shall cover the period between January 1, 1933, through December 31, 1945, and shall include, to the greatest extent practicable, the following:

(1) A review of the United States Government's refusal to allow Jewish and other refugees fleeing persecution and genocide entry to the United States, including a review of the underlying rationale of the United States Government's decision to refuse the Jewish and other refugees entry, the information the United States Government received or acquired suggesting such refusal was necessary, the perceived benefit of such refusal, and the impact of such refusal on the refugees.

(2) A review of Federal refugee policy relating to those fleeing persecution or genocide, including recommendations for making it easier for future victims of persecution or genocide to obtain refuge in the United States.

(c) FIELD HEARINGS.—The Jewish Refugee Commission shall hold public hearings in such cities of the United States as it deems appropriate.

(d) REPORT.—The Jewish Refugee Commission shall submit a written report of its findings and recommendations to Congress not later than 18 months after the date of the first meeting called pursuant to section 201(e).

SEC. 203. POWERS OF THE JEWISH REFUGEE COMMISSION.

(a) IN GENERAL.—The Jewish Refugee Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The Jewish Refugee Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) GOVERNMENT INFORMATION AND COOPERATION.—The Jewish Refugee Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information that the Jewish Refugee Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Jewish Refugee Commission and furnish all information requested by the Jewish Refugee Commission to the extent permitted by law, including information collected as a result of Public Law 96–317 and Public Law 106–451. For purposes of the Privacy Act (5 U.S.C. 552a(b)(9)), the Jewish Refugee Commission shall be deemed to be a committee of jurisdiction.

SEC. 204. ADMINISTRATIVE PROVISIONS.

The Jewish Refugee Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–15 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) obtain the detail of any Federal Government employee, and such detail shall be without reimbursement or interruption or loss of civil service status or privilege;

(4) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(5) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(6) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

From funds currently authorized to the Department of Justice, there are authorized to be appropriated not to exceed $500,000 to carry out the purposes of this title.

SEC. 206. SUNSET.

The Jewish Refugee Commission shall terminate 60 days after it submits its report to Congress.

Amend the title so as to read: ''A bill to establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II.''.

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

S. 1693. A bill to amend section 35 of the Internal Revenue Code of 1986 to allow individuals receiving unemployment compensation to be eligible for a refundable, advanceable credit for health insurance costs; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I am pleased to introduce, along with Senator BAUCUS, an extension of a bipartisan policy to help reduce the number of people living without health insurance today.

In simplist terms, our bill extends the 65 percent credit offered to people eligible for trade adjustment assistance, and to certain PBGC beneficiaries, to those workers eligible for unemployment insurance.

Is it perfect policy? No. Does it ''solve'' the problem of the uninsured? it does not.

But it's an important step in the right direction. I do not subscribe to the view that ''incrementalism'' when it comes to covering the uninsured, is dead.

With census figures showing the number of Americans living without health insurance increasing, even small steps are steps in the right direction.

Incrementalism has made a difference. For example, the few million people we covered with this tax credit in last year's trade promotion authority bill made a difference. The S–CHIP program made a difference. I believe Medical Savings Accounts and the small group market reforms we made in HIPAA all have made a difference in controlling what would otherwise be a much larger number of people without health insurance.

This year, Congress, in a bipartisan way, put $50 billion into a reserve fund to address the rising number of uninsured. The year is more than almost over, and nothing has been done, or even discussed.

I will not let a bipartisan consensus to spend $50 billion on improving access to health insurance lay there on the table. Iowans expect us to do get things done.

And to get anything, even something small, done on a problem this big, it's got to be bipartisan. That's why I am glad to be building on my work with Senator BAUCUS and making this important, novel program available to more Americans.

I am looking forward to exploring still more options in the Finance Committee on reducing the uninsured in the weeks and months ahead.

Mr. BAUCUS. Mr. President, I rise today to introduce the Health Care Tax Credit Expansion Act of 2003.

According to the most recent census figures, more than 41 million Americans lack health insurance coverage. More than the population of 23 States, plus the District of Columbia. As premiums sky rocket and the unemployment rate remains high—despite signs of economic recovery—I worry that this number may grow even higher.

For America's uninsured, the consequences of going without health coverage can be devastating.

Put plainly, uninsured Americans are less healthy than those with health insurance. They delay seeking medical care or go without treatment altogether that could prevent and detect crippling illnesses. Illnesses like diabetes, heart disease, and cancer. The uninsured are far less likely to receive health services if they are injured or become ill. They don't fill prescriptions that their doctors recommend.

These factors take an enormous personal toll on the lives of the uninsured. They are sicker and less productive. Their children are less likely to survive past infancy. And they must struggle with the knowledge that a serious injury or illness in their family might push them to the brink of financial ruin.

And there is also the impact on the rest of the U.S. economy that must be taken into account. Because when the uninsured become so sick that they must finally seek emergency treatment, there is often no one to pay for it. No insurance company. No government program.

So who absorbs the cost of uncompensated medical care? We all do. In the form of higher health care costs. Higher and higher premiums at a time when the cost of health care is already rising out of control.

The situation is becoming critical. And I believe the time for talking has ended. It is time for us to examine solutions instead of talking about the problem.

That is why I have joined with my colleague, chairman of the Senate Finance Committee, Senator CHUCK GRASSLEY, to introduce this important piece of legislation.

Our bill would provide health care assistance to the unemployed—one specific category of those without health insurance. And one where we believe there is agreement to move forward.

More specifically, this bill would expand the 65 percent refundable, advanceable tax credit that is currently provided under the Trade Adjustment Assistance program to workers receiving unemployment benefits.

By building on the structure that Congress put in place last year under the Trade Act, we make it more likely that unemployed workers can receive benefits in a timely manner. Without significant implementation and start-up time.

And by building on the historic agreement that we reached last year, we are more likely to have support for the structure and approach.

Let me be clear. This bill is not a major overhaul of the U.S. health care system that several Democratic Presidential candidates have outlined. It was not intended and does not seek to cover everyone in this country without health insurance.

Rather the proposal would use the money set aside in this year's budget for the uninsured—$50 billion—on a targeted policy that I believe both sides can agree on. It is a practical, principled, incremental solution.

WHY THE UNEMPLOYED?

According to the Labor Department, since February 2001, 2.6 million jobs have been lost. And with those jobs, an awful lot of health insurance has been lost, too.

Despite assertions by economists that the recession has ended and the economy is experiencing signs of improvement, the unemployment rate has remained stubbornly high—6.4 percent in June. In fact, we are hearing more and more talk of the same ''jobless recovery'' that we heard about following the recession in the early 1990s.

It is true that employment does not immediately improve when an economy emerges from recession. We read repeatedly that even if growth surges and business investment begins to take off tomorrow, the ranks of the unemployed may not thin for months.

Unfortunately, for many, many families, this means more weeks, if not months, of endless job searches. And a longer period of time without health coverage.

An estimated 46 percent of unemployed adults lack health insurance, or about 4 million unemployed workers. Less than one in three unemployed adults receives health coverage through their spouse or other family member.

And while 65 percent may qualify for COBRA continuation coverage, only 7 percent can afford to enroll. That is not surprising. Premiums for this coverage average almost $700 a month for family coverage and $250 for individual coverage. A very high price, given the average $1,100 monthly UI check.

Last year, when we debated the economic recovery package, both Republicans and Democrats proposed to expand health coverage for unemployed workers. There was almost universal agreement that this population deserved help and attention. So I think it's a good place for us to start from this year.

WHY A TAX CREDIT?

There's been a lot of debate about the best way to expand health insurance coverage to the uninsured. Most Democrats favor expanding public programs like Medicaid and CHIP, and harnessing the power of the group insurance market to provide affordable coverage options.

Most Republicans, however, favor a more market-based approach that gives the uninsured tax breaks and allows them to use the individual insurance market.

But, after years of logjams and disagreements, we were able to come together last year when we created the TAA tax credit. The TAA tax credit merges a market-based tax credit with the affordability of the group insurance market. This proposal simply builds on that progress. With the structures now in place to implement the TAA credit, a new tax credit for the unemployed can easily be incorporated into the new system.

CAVEATS

I realize that the TAA tax credit is not a perfect model. And we may need to make some adjustments as full implementation kicks in this summer. For example, we need to ensure that the groups we intended to cover actually have access to coverage.

In particular, all workers who had health insurance coverage for 3 months before they lost their jobs should be assured of coverage they qualify for under TAA. I support making the technical change that would provide that assurance.

I am also willing to consider other improvements, like additional help for low income workers.

But I do not think these adjustments should deter us from moving forward with an expansion of the tax credit. Millions of unemployed workers and their families need our help. And they need it now.

All told, expanding the TAA tax credit to the unemployed would provide health insurance coverage for 1.4 million Americans a month who are currently unemployed and uninsured. It's not a panacea. But it's a start.

I hope my colleagues will join this fight by helping us pass this legislation, and taking a solid step toward providing quality, affordable health insurance to all Americans.

By Mr. BROWNBACK:

S. 1694. A bill to amend title 38, United States Code to authorize the Secretary of Veterans Affairs to provide veterans who participated in certain Department of Defense chemical and biological warfare testing to be provided health care for illness without requirement for proof of service-connection; to the Committee on Veterans' Affairs.

Mr. BROWNBACK. Mr. President, I rise today to introduce the Health Care for Veterans of Project 112/Project SHAD Act of 2003. This bill will authorize health care assistance for veterans who participated in specific Department of Defense chemical and biological warfare testing without any requirements related to proof of service-connection for their illness.

Project 112 consisted of a series of cold war chemical, nuclear, and biological tests conducted both at sea and over land from 1962 to 1973. This project was one of 150 military initiatives designed to identify U.S. military personnel and warship vulnerabilities to chemical, nuclear, and biological attacks. Some of the tests that were part of Project 112/Operation Shipboard Hazard and Defense (SHAD) involved the use of dangerous agents such as sarin, VX, tularemia, and anthrax. The Defense Department has recognized that it does not have adequate documentation to prove that test participants were informed of the potential risks, or that personnel received adequate protective gear during testing.

After an extensive search for records to identify all tests conducted and link the dates of specific tests to the personnel on-board at the time, the DOD produced a comprehensive list of all tests conducted and each veteran involved in this project. In response to a VA request, DOD reviewed and declassified information concerning the exact agents used and other details of the Project 112 tests. This information was subsequently turned over to the Department of Veterans Affairs, and the VA began the process of contacting the veterans identified as participants.

A total of 5,842 persons were identified as having been present in one or more of the tests. All veterans who believe they were involved in tests and have medical concerns have been encouraged to contact VA to receive medical evaluations. Although Project 112 veterans suffer from a broad range of ailments from cancer to hypertension, a causal link between the tests and their current ailments has not been established. Due to the amount of time that has passed and the relatively small number of people involved in any specific test, it is highly unlikely that we will ever be able to fully determine the health effects from the tests.

It would be unconscionable to require Project 112 veterans to prove a connection between their involvement in these tests and their current health problems. If we cannot disprove a service connection, then we should assume

responsibility for their health care. This Health Care for Veterans of Project 112/Project SHAD Act of 2003 would provide priority access to VA hospital care, medical services, and nursing home care for veterans identified as participants in these tests, and not require medical evidence that any illnesses are attributable to such testing. This is an important step in bringing some finality to this issue and living up to our commitment to this group of veterans.

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

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

S. 1694

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 ''Health Care for Veterans of Project 112/Project SHAD Act of 2003''.

SEC. 2. PROVISION OF HEALTH CARE TO VETERANS WHO PARTICIPATED IN CERTAIN DEPARTMENT OF DEFENSE CHEMICAL AND BIOLOGICAL WARFARE TESTING.

Section 1710(e) of title 38, United States Code, is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

''(E) Subject to paragraphs (2) and (3), a veteran who participated in a test conducted by the Department of Defense Deseret Test Center as part of a program for chemical and biological warfare testing from 1962 through 1973 (including the program designated as 'Project Shipboard Hazard and Defense (SHAD)' and related land-based tests) is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such illness is attributable to such testing.'';

(2) in paragraph (2)(B), by striking ''paragraph (1)(C) or (1)(D)'' and inserting ''subparagraph (C), (D), or (E) of paragraph (1)''; and

(3) in paragraph (3)—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

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

''(D) in the case of care for a veteran described in paragraph (1)(E), after December 31, 2005.''.

By Mr. LEAHY (for himself, Mr. CRAIG, Mr. DURBIN, Mr. SUNUNU, and Mr. REID):

S. 1695. A bill to provide greater oversight over the USA PATRIOT Act; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am introducing with Senators CRAIG, SUNUNU, DURBIN, and REID, my distinguished colleagues from Idaho, New Hampshire, Illinois, and Nevada, the Patriot Oversight Restoration Act of 2003, a short bill whose singular but important purpose is to provide Congress the opportunity to take a hard look at the USA PATRIOT Act, which we passed in the anxious weeks following the devastating attacks of September 11, 2001. This bipartisan bill is moderate in scope; it would simply expand the sunset provision already enacted in the PATRIOT Act, to cover a number of additional provisions. The ensuing debate, however, should be considerable. My hope is that, before the sunset expires in December 2005, Congress will methodically revisit PATRIOT, with an eye toward achieving a suitable balance between the need to address the threat of terrorism and the need to protect our constitutional freedoms—and with the lessons of the past few years to guide us.

We recently marked the second anniversary of the September 11 attacks. As we reflect on that terrible day, and honor those who were lost, I strongly believe we should take stock of where we stand in our fight against terrorism. In the aftermath of the attacks, Congress and the administration did forge a constructive partnership to write the USA PATRIOT Act, which was meant to help our law enforcement and intelligence communities prevent future attacks from occurring. The PATRIOT Act represented our best efforts, under difficult circumstances, to balance the rights and liberties of the American people with the very urgent need to confront a threat to our Nation.

Even in balancing this tension, we granted the executive branch an unprecedented, vast new array of powers. We did so because we believed the administration's claim that it needed these powers to protect us, and because we trusted the administration's promise that it would use these powers appropriately. I noted at the time that PATRIOT was not the bill that I, or any of the sponsors, would have written if compromise were unnecessary. But I believed in the bill's purpose, and I gave it my vote and support. I worked hard to add checks and balances to many of its provisions, and did so.

Unfortunately, like many Members who supported the act—and like many Americans nationwide—I have come to feel disappointed. Since we passed the PATRIOT Act in October 2001, it has grown increasingly apparent that the trust and cooperation Congress provided to the executive branch has proved to be a one-way street. In the quarter-century that I have served in the Senate, no administration has been more secretive, more resistant to congressional oversight, and more disposed to acting unilaterally, without the approval of the American people or their democratically elected representatives. Despite the administration's unprecedented public relations campaign to promote the PATRIOT Act—including a 16-State, 18-city tour by the Attorney General himself—the administration has yet to show that it is using its PATRIOT powers wisely. Instead, it has been secretly drafting a sequel to PATRIOT that would grant it even more far-reaching powers.

I would never oppose an open discussion of any legislative tool that would help in the fight against terrorism. But for such a debate to be fruitful, we need to know more about the tools that are already available, including those created by the PATRIOT Act. Which are working, and how well? Which are not working, and why? Which, if any, struck the wrong balance, threatening the civil liberties of our citizens while doing little or nothing to keep our Nation secure?

Immediately after the PATRIOT Act passed, the administration draped a cloak of secrecy around its use. When lawmakers and citizens have attempted to start a dialogue on PATRIOT-related issues, the response has been to ignore, insult or derisively dismiss them.

Attorney General Ashcroft has repeatedly declined to appear before the Judiciary Committee to answer questions, and his Department is painfully slow to respond to written requests for information. To quote my friend Senator GRASSLEY, ''getting information from the Justice Department under Ashcroft is like pulling teeth.'' By ignoring oversight requests until answers are moot or outdated, and responding in only vague and conclusory fashion, if at all, the Justice Department frustrates our constitutional system of checks and balances, and sows the sort of public distrust that now accompanies the PATRIOT Act.

Just recently, in July, the Department dumped on committee members literally hundreds of pages of answers to questions that had been submitted to Attorney General Ashcroft and other senior Department officials following their testimony before the committee more than a year earlier. To give just one example of what a travesty it is when oversight questions remain unanswered for a year or more, the Department's responses dated July 17, 2003, devoted fully 15 pages to answering questions about Operation TIPS—an ill-conceived program that Congress had already terminated more than 8 months earlier.

Is the Department incapable of responding to congressional inquiries in a timely fashion? Is it deliberately stonewalling? Or does it simply believe that oversight is a game that it need not play?

Even more troubling, high-level administration officials have rashly suggested that anyone who dares to voice their concerns as unpatriotic, anti-American and pro-terrorist. In one of his rare appearances before the Senate Judiciary Committee, Attorney General Ashcroft charged that ''fear mongers''—those who were raising concern about the loss of civil liberties—were only aiding the terrorists. More recently, a Justice Department official dismissed the many local government resolutions condemning the PATRIOT Act by saying ''half are either in cities in Vermont, very small population, or in college towns in California. It's in a lot of the usual enclaves where you might see nuclear free zones, or they

probably passed resolutions against the war in Iraq.''

It is unfortunate that the Justice Department felt it appropriate to ridicule these grass-roots efforts to participate in an important national dialogue. The opportunity to engage in public discourse is one of the hallmark benefits of being an American, and I am proud that Vermont towns are among those dedicated to thinking about and acting on these important issues. But more importantly, the concerns expressed in my home State are being echoed by Americans nationwide. To date, anti-PATRIOT resolutions have been passed by 178 communities in 32 States including Idaho, New Hampshire, and Illinois. These communities represent millions upon millions of Americans, not just a few free-spirited Vermonters, as the Justice Department has insinuated.

Concerns about the administration's antiterror tactics are also shared by Members on both sides of aisle, many of whom supported the PATRIOT Act as well as the war in Iraq, but who now know that the administration has been less than forthright about what it has been doing in the name of the American people. In July, the House voted to nullify section 213 of the PATRIOT Act, which allows law enforcement to ask a court to delay notice of a search warrant where it could have certain adverse results. And several bills have been introduced in both Houses to roll back another PATRIOT Act provision, section 215, which gives federal agents new power to obtain records from libraries and bookstores. Remarkably, in response, the Justice Department then declassified information summarily reflecting that it has never used the Section 215 powers—despite expressing urgent ''need'' during pre-PATRIOT Act debate. And almost simultaneous to this announcement, the President urged support for an alternative record gathering power when Section 215 is still on the books. One has to question the inconsistencies in these two positions and whether Congress should blindly confer data gathering powers on an administration that does not provide a hint of factual support for such requests. There is overall a growing sense in the nation that Congress moved too fast in enacting the PATRIOT Act, and that the Justice Department moved too slowly in explaining its use of this sweeping legislation.

When we passed the PATRIOT Act in October 2001, I noted that Congress needed to exercise careful oversight of how the Justice Department, the FBI and other executive branch agencies used the newly expanded powers that the act provided. The need for oversight and accountability is the reason that former House Majority Leader Dick Armey and I insisted on a sunset provision for several key provisions in PATRIOT—provisions that blurred the lines between criminal investigation and intelligence gathering. We succeeded, but only in part; several PATRIOT provisions that should have been subject to the sunset—including a few that were sunset or even cut in the version of the bill reported by the House Judiciary Committee—were omitted from the sunset. As enacted, the sunset applies only to certain enhanced surveillance authorities in title II of the act.

The PATRIOT Oversight Restoration Act would extend PATRIOT's sunset provision to other enhanced surveillance provisions in title II of the act. These include subsections (a) and (c) of section 203, which authorize the disclosure of grand jury information to foreign enforcement, intelligence and immigration officials; sections 210 and 211, which broaden the types of information that law enforcement may obtain, upon request, from electronic communication service providers and cable service operators; section 213, which authorizes so-called ''sneak and peak''—delayed notification—search warrants; sections 216 and 222, which significantly expand when, where, and how law enforcement can obtain a pen register or trap and trace order; and section 219, which authorizes judges to sign search warrants for properties located outside their districts.

In addition to these title II provisions, the PATRIOT Oversight Restoration Act would also extend the sunset to a handful of provisions in titles IV, V, VIII and X of the PATRIOT Act. These provisions include sections 411 and 1006, which expand the Government's authority to declare certain persons inadmissible to the United States; section 412, which grants the Attorney General authority to ''certify'' that an alien is engaged in activity that endangers the national security, and to take such an alien into custody; section 505, which gives law enforcement greater authority to access telephone, bank, and credit records through the issuance of so-called ''National Security Letters,'' even if no criminal investigation is pending and without court review; sections 507 and 508, which remove certain privacy protections for educational records and surveys—called ''obstacles'' to investigating terrorism in the PATRIOT Act; section 802, which defines ''domestic terrorism'' in a way that could be read to include political protesters engaged in civil disobedience; section 806, which uses the aforementioned definition of ''domestic terrorism'' to expand the government's civil forfeiture authority; and section 1003, which references another section of PATRIOT that is already covered by the sunset.

With the PATRIOT Act, Congress provided government investigators with a virtual smorgasbord of new powers from which to choose. Is the Government gorging itself on the secretive powers allowed for ''foreign intelligence'' gathering, with their less onerous procedural requirements, rather than relying on bedrock criminal investigatory techniques that are subject to more rigorous review by the Federal courts? Have we provided too many choices and too much power to a limited few? These are questions that require answers before the more far-reaching provisions of PATRIOT are etched into stone.

The events of September 11, 2001, resound in our hearts and in our memories. We owe it to the American people to be circumspect in the powers and authorities we grant, even in the name of national security. Our country was attacked on September 11 because of the democratic principles that this country stands for and that we love. It would be a cruel twist of irony to abandon those principles in the guise of a law named ''PATRIOT'' that might prove to be anything but a defender or protector of those cherished rights and freedoms.

The PATRIOT Oversight Restoration Act offers a cautious and sensible solution to evolving fears about the PATRIOT Act. It will allow Congress to re-examine some of the important legal issues that abruptly confronted us in the weeks following September 11, and to re-assess our efforts with the benefit of hindsight and the luxury of time.

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

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

THE PATRIOT OVERSIGHT RESTORATION ACT OF 2003

Extends the current sunset provision in section 224 of the USA PATRIOT Act (Pub. L. 107–56) to the following additional sections of that law.:

203(a) and (c), which authorize the disclosure of grand jury information to foreign enforcement, intelligence and immigration officials;

210 and 211, which broaden the types of information that law enforcement may obtain, upon request, from electronic communication service providers and cable service operators;

213, which authorizes so-called ''sneak and peak'' (delayed notification) search warrants;

216 and 222, which expand when, where, and how law enforcement can obtain a pen register or trap and trace order;

219, which authorizes judges to sign search warrants for properties located outside their districts;

358, which establishes greater reporting requirements by financial institutions for bank records and removes privacy protections under the law for the same records;

411 and 1006, which expand the government's authority to declare certain persons inadmissible to the United States;

412, which grants the Attorney General authority to ''certify'' that an alien is engaged in activity that endangers the national security, and to take such an alien into custody;

505, which gives law enforcement greater authority to access telephone, bank, and credit records through the issuance of so-called ''National Security Letters'';

507 and 508, which remove certain privacy protections for educational records and surveys;

802, which defines ''domestic terrorism'' in a way that could be read to include political protesters engaged in civil disobedience.

806, which uses the aforementioned definition of ''domestic terrorism'' to expand the government's civil forfeiture authority; and

1003, which references another section of PATRIOT (section 217, ''Interception of computer trespasser communications'') that is already covered by the sunset.

Clarifies that after these provisions sunset on December 31, 2005, the law shall revert to what it was before the USA PATRIOT Act was enacted.

S. 1695

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 ''PATRIOT Oversight Restoration Act of 2003''.

SEC. 2. EXTENSION AND CLARIFICATION OF PATRIOT SUNSET PROVISION.

The USA PATRIOT Act (Public Law 107–56) is amended by—

(1) striking section 224;

(2) adding at the end of title X the following:

''SEC. 1017. SUNSET.

''(a) IN GENERAL.—Except as provided in subsection (b), the following sections of this Act and any amendments made by such sections shall cease to have effect on December 31, 2005, and any provision of law amended or modified by such sections shall take effect January 1, 2006, as in effect on the day before the effective date of this Act:

''(1) In title II, all sections other than sections 201, 202, 204, 205, 208, and 221, and the first sentence of section 222.

''(2) In title III, section 358.

''(3) In title IV, sections 411 and 412.

''(4) In title V, sections 505, 507, and 508.

''(5) In title VIII, sections 802 and 806.

''(6) In this title, sections 1003 and 1006.

''(b) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in subsection (a) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect.''; and

(3) in the table of contents for such Act, by—

(A) striking the item for section 224 and inserting the following:

''Sec. 224. [Stricken see section 1017].'';

and

(B) inserting after the item for section 1016 the following:

''Sec. 1017. Sunset.''.

Mr. CRAIG. Mr. President, I am pleased to join the distinguished Senator from Vermont, Senator LEAHY, and our other colleagues in introducing the PATRIOT Oversight Restoration Act of 2003.

I am one of those who voted in favor of the USA PATRIOT Act to respond to the unprecedented, tragic attacks of September 11, 2001. However, even at the time of that vote, I raised my reservations about the new authorities being granted under the act, and pledged that there would be aggressive oversight by the legislative branch to make sure PATRIOTS implementation did not compromise civil liberties.

Since that time, this lengthy and complex law has been subjected to considerable dissection and discussion both inside and outside of Congress, and concerns have been raised about many of its provisions. The low boil of discontent around the Nation exploded in the other Chamber some weeks ago with a strong vote to prohibit the use of appropriated funds for requesting delayed notice of a search warrant under the act.

To its credit, the Bush administration has lately worked to address criticism of the law and demonstrate there have been no abuses by Federal law enforcement. I greatly appreciate those efforts and believe it is vitally important to continue that dialog with the Congress and the American people.

At the same time, in light of the serious concerns that have been raised, I think it is appropriate for us to add some triggers to the law that will force Congress to review and affirmatively renew these authorities. That is what the PATRIOT Oversight Restoration Act would accomplish, by sunsetting additional provisions that are not currently set to expire. I do not think this will create a burden for law enforcement; on the contrary, if these authorities are indeed critical to the protection of our Nation, it should not be difficult to convince Congress to renew them. Furthermore, the knowledge that such a case must be made at a time certain in the future will serve as an additional immediate check against potential abuses.

The security of our Nation is the first responsibility of the Federal Government. Our bill will ensure that responsibility is carried out thoughtfully and in our country's great tradition of balance and restraint in the enforcement of our laws. I urge all our colleagues to join us in supporting the PATRIOT Oversight Restoration Act.

By Mr. CAMPBELL (for himself and Mr. INOUYE)

S. 1696. A bill to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to be joined by Senator INOUYE in introducing the Department of Health and Human Services Tribal Self Governance Amendments of 2003, a bill that will usher in the next phase in Indian Self Governance in health and health-related programs.

Up to 1970 the U.S. Government was the sole provider of all or nearly all services to Indian tribes and their members.

For many it is hard to recall that little more than 30 years ago the Federal bureaucracy and its employees provided all police, fire, resource husbandry, education, and health care services in Indian communities.

The effects on tribal governments were negative and, by crowding out the tribes, undermined tribal efforts at self-government.

The Federal monopoly in services was ended in 1970 when President Nixon issued his now-famous Special Message to Congress on Indian Affairs that called for a greater tribal role in designing and implementing Federal services and programs and in re-building tribal governments.

Nixon's Message led to the enactment of the Indian Self Determination and Education Assistance Act of 1975, Pub. L. 93–638.

Since then Congress has systematically devolved to Indian tribes the authority and responsibility to manage Federal programs and assume control over their own affairs.

Tribal Self Governance aims to foster strong tribal governments and healthy reservation economies as mechanisms to further tribal self-government. Self Governance has resulted in a reduction in the Federal bureaucracy and an improvement in the quality of services delivered to tribal members.

Instead of Federal micro-management, the Indian tribes can tailor the programs to unique local conditions and better serve their members.

For good reason, Tribal Self Governance has been embraced and expanded by Congress and the executive repeatedly with amendments enacted in 1984, 1988, 1994, and 2000.

Building on the solid successes of the early years, the amendments made permanent Self Governance in the Bureau of Indian Affairs and launched additional demonstrations in the Indian Health Service. In 2000, I introduced a bill that was enacted to make Self Governance in Health Care permanent at the IHS.

The bill I am introducing today will create a demonstration project for non-Indian Health Service programs in the Department of Health and Human Services.

I urge my colleagues to join me in supporting this important bill.

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

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

S. 1696

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 ''Department of Health and Human Services Tribal Self-Governance Amendments Act of 2003''.

SEC. 2. AMENDMENT.

The Indian Self-Determination and Education Assistance Act is amended by striking title VI (25 U.S.C. 450f note; Public Law 93–638) and inserting the following:

''TITLE VI—TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

''SEC. 601. DEFINITIONS.

''In this title:

''(1) COMPACT.—The term 'compact' means a compact under section 604.

''(2) CONSTRUCTION PROJECT.—The term 'construction project' has the meaning given the term in section 501.

''(2) DEMONSTRATION PROJECT.—The term 'demonstration project' means the demonstration project under this title.

''(3) FUNDING AGREEMENT.—The term 'funding agreement' means a funding agreement under section 604.

''(4) INCLUDED PROGRAM.—The term 'included program' means a program that is eligible for inclusion under a funding agreement under section 604(c) (including any portion of such a program and any function,

service, or activity performed under such a program).

''(5) INDIAN TRIBE.—The term 'Indian tribe', in a case in which an Indian tribe authorizes another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out an included program on its behalf in accordance with section 603(a)(3), includes the other authorized Indian tribe, inter-tribal consortium, or tribal organization.

''(6) INTER-TRIBAL CONSORTIUM.—The term 'inter-tribal consortium' has the meaning given the term in section 501.

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(8) SELF-GOVERNANCE.—The term 'self-governance' has the meaning given the term in section 501.

''(9) TRIBAL SHARE.—The term 'tribal share' has the meaning given the term in section 501.

''SEC. 602. ESTABLISHMENT OF DEMONSTRATION PROJECT.

''(a) DEMONSTRATION.—For a period of not more than 5 years after the date of enactment of the Department of Health and Human Services Tribal Self-Governance Amendments Act of 2003, the Secretary shall carry out a project to demonstrate the effectiveness of tribal operation of the included programs under self-governance principles and authorities.

''(b) ADMINISTRATION.—The management and administration of the demonstration project shall be in the Office of the Secretary.

''SEC. 603. SELECTION OF PARTICIPATING INDIAN TRIBES.

''(a) IN GENERAL.—

''(1) CONTINUING PARTICIPATION.—Not more than 50 Indian tribes that meet the eligibility criteria specified in subsection (b) shall be entitled to participate in the demonstration project.

''(2) ADDITIONAL PARTICIPANTS.—If more than 50 eligible Indian tribes request participation, the Secretary may select additional Indian tribes to participate in the demonstration project.

''(3) OTHER AUTHORIZED INDIAN TRIBE, INTER-TRIBAL CONSORTIUM, OR TRIBAL GOVERNMENT.—If an Indian tribe authorizes another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out an included program on its behalf under this title, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution).

''(b) ELIGIBILITY.—An Indian tribe shall be eligible to participate in the demonstration project if the Indian tribe, as of the date of enactment of the Department of Health and Human Services Tribal Self-Governance Amendments Act of 2003, is a party to a compact or funding agreement under this Act.

''(c) SELECTION.—The Secretary shall select Indian tribes that request participation in the demonstration project by resolution or other official action by the governing body of each Indian tribe to be served.

''(d) PLANNING AND NEGOTIATION GRANTS.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a program to allow Indian tribes that meet the eligibility requirements of this title to be awarded a planning grant or negotiation grant, or both.

''(2) RECEIPT OF GRANT NOT REQUIRED.—Receipt of a grant under paragraph (1) by an Indian tribe is not a requirement for the Indian tribe to participate in the demonstration project.

''SEC. 604. COMPACTS AND FUNDING AGREEMENTS.

''(a) IN GENERAL.—

''(1) NEW COMPACT AND FUNDING AGREEMENT.—Not later than 60 days after the date of submission by an Indian tribe of a request to participate in the demonstration project, the Secretary shall negotiate and enter into a written compact and funding agreement with the Indian tribe in a manner that is consistent with the trust responsibility of the Federal Government, treaty and statutory obligations, and the government-to-government relationship between Indian tribes and the United States.

''(2) EXISTING COMPACT.—Rather than enter into a new compact under paragraph (1), an Indian tribe may use an existing compact negotiated under title V for purposes of the demonstration project.

''(b) COMPACTS.—

''(1) CONTENTS.—A compact under subsection (a) shall designate—

''(A) congressional policies regarding tribal self-governance;

''(B) the intent of the demonstration project;

''(C) such terms as shall control from year to year; and

''(D) any provisions of this title that are requested by the Indian tribe.

''(2) EFFECTIVE DATE.—The effective date of a compact shall be the date of execution by the Indian tribe and the Secretary or another date agreed on by the parties.

''(3) DURATION.—A compact shall remain in effect so long as permitted by Federal law or until terminated by agreement of the parties.

''(4) AMENDMENT.—A compact may be amended only by agreement of the parties.

''(c) FUNDING AGREEMENTS.—

''(1) SCOPE.—A funding agreement under subsection (a) shall, at the option of the Indian tribe, authorize the Indian tribe to plan, conduct, and administer included programs administered by the Secretary through an agency of the Department of Health and Human Services, set forth in paragraphs (2) through (4).

''(2) INITIAL INCLUDED PROGRAMS.—The following programs are eligible for inclusion in a funding agreement under this title:

''(A) ADMINISTRATION ON AGING.—Grants for Native Americans under title VI of the Older Americans Act of 1965 (42 U.S.C. 3057 et seq.);

''(B) ADMINISTRATION FOR CHILDREN AND FAMILIES.—

''(i) The tribal temporary assistance for needy families program under section 412(a)(1) of the Social Security Act (42 U.S.C. 612(a)(1) et seq.).

''(ii) The Low-Income Home Energy Assistance Program under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

''(iii) The Community Services Block Grant Program under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

''(iv) The Child Care and Development Fund under the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.).

''(v) The native employment works program under section 412(a)(2) of the Social Security Act (42 U.S.C. 612(a)(2)).

''(vi) The Head Start Program under the Head Start Act (42 U.S.C. 9831 et seq.).

''(vii) Child welfare services programs under part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.).

''(viii) The promoting safe and stable families program under part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.).

''(ix) Family violence prevention grants for battered women's shelters under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);

''(C) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—Targeted capacity expansion program under title V of the Public Health Service Act (42 U.S.C. 290aa et seq.);

''(D) BLOCK GRANTS REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE.—Mental health and substance abuse block grant programs under title XIX of the Public Health Services Act (42 U.S.C. 300x et seq.);

''(E) HEALTH RESOURCES AND SERVICES ADMINISTRATION.—Community health center grants under section 330 of the Public Health Service Act (42 U.S.C. 254b).

''(3) ADDITIONAL INCLUDED PROGRAMS.—The Secretary may identify not more than 6 additional programs annually for inclusion in the demonstration project, including—

''(A) all other programs in which Indian tribes are eligible to participate;

''(B) all other programs for which Indians are eligible beneficiaries; and

''(C) competitive grants for which an Indian tribe receives an individual or cooperative award, on the condition that the Indian tribe agree in the funding agreement to restrictions regarding program redesign and budget reallocation for any competitive awards.

''(4) CONTENTS.—A funding agreement—

''(A) shall specify—

''(i) the services to be provided;

''(ii) the functions to be performed; and

''(iii) the responsibilities of the Indian tribe and the Secretary;

''(B) shall provide for payment by the Secretary to the Indian tribe of funds in accordance with section 605;

''(C) shall not allow the Secretary to waive, modify, or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exist under treaties, Executive orders, and Acts of Congress; and

''(D) shall allow for retrocession of included programs under section 105(e).

''SEC. 605. TRANSFER OF FUNDS.

''(a) TRANSFER.—

''(1) IN GENERAL.—Under any compact or funding agreement entered into under this title, the Secretary shall transfer to the Indian tribe all funds provided for in the funding agreement.

''(2) TIMING.—Unless the funding agreement provides otherwise, at the request of the Indian tribe—

''(A) funding shall be paid in 1 annual lump sum payment; and

''(B) the transfer shall be made not later than 10 days after the apportionment of funds by the Office of Management and Budget to the Department of Health and Human Services.

''(b) AMOUNT OF FUNDING.—

''(1) FUNDING FORMULAS.—

''(A) IN GENERAL.—Any statutory funding formula for an included program—

''(i) shall be waived for the demonstration project under this title; and

''(ii) shall be used to determine the amount of funding provided to an Indian tribe.

''(B) ADEQUACY.—Subject to the availability of appropriations—

''(i) the funding amount shall be adequate to permit the successful implementation of the demonstration project; and

''(ii) the Secretary and the participating Indian tribe shall determine the funding amount through negotiation.

''(2) MATCHING REQUIREMENT.—An Indian tribe may request a waiver of any matching requirement applicable to an included program, and the Secretary shall liberally grant such reasonable waiver requests.

''(3) CONTRACT SUPPORT COSTS.—There shall be added to the amount required by paragraph (1) contract support costs as specified in paragraphs (2), (3), (5), and (6) of section 106(a).

''(4) ADMINISTRATIVE FUND SHARES.—

''(A) IN GENERAL.—An Indian tribe may negotiate for a tribal share of administrative

funds without regard to the organizational level at which the included programs are carried out.

''(B) INCLUSION.—A tribal share under subparagraph (A) shall include a share for training and technical assistance services performed by a contractor.

''SEC. 606. GENERAL PROVISIONS.

''(a) REDESIGN, CONSOLIDATION, AND REALLOCATION.—

''(1) IN GENERAL.—To the extent allowed under the statutory provisions of the included programs included in the funding agreement, and subject to the terms of the funding agreement, an Indian tribe may—

''(A) redesign or consolidate the included programs under the funding agreement if the Indian tribe agrees to abide by the statutory purposes of the program; and

''(B) reallocate or redirect funds for the included programs, among the included programs under the funding agreement, so long as all demonstration project costs using those funds meet allowable cost standards as required by section 506(c).

''(2) WAIVERS.—

''(A) IN GENERAL.—At the request of an Indian tribe, if the Secretary determines that a waiver would further the purposes of this Act, the Secretary shall grant a waiver of program requirements for the duration of the demonstration project to facilitate the ability of an Indian tribe to redesign included programs or reallocate funds under paragraph (1).

''(B) DOCUMENTATION.—The Secretary shall document all requests for a waiver under subparagraph (A), including a description of—

''(i) the reasons for each request;

''(ii) the effect of the waiver on the Indian tribe making the request; and

''(iii) the views of the Indian tribe regarding the requested waiver.

''(b) INABILITY TO AGREE ON COMPACT OR FUNDING AGREEMENT.—

''(1) FINAL OFFER.—If the Secretary and an Indian tribe are unable to agree, in whole or in part, on the terms of a compact or funding agreement (including funding levels), the Indian tribe may submit a final offer to the Secretary.

''(2) DETERMINATION.—Not later than 45 days after the date of submission of a final offer, or as otherwise agreed to by the Indian tribe, the Secretary shall review and make a determination with respect to the final offer.

''(3) NO TIMELY DETERMINATION.—If the Secretary fails to make a determination with respect to a final offer within the time specified in paragraph (2), the Secretary shall be deemed to have agreed to the final offer.

''(4) REJECTION OF FINAL OFFER.—

''(A) IN GENERAL.—If the Secretary rejects a final offer, the Secretary shall—

''(i) submit to the Indian tribe a written statement clearly setting forth the reasons for rejecting the final offer; and

''(ii) provide the Indian tribe with a hearing on the record (except that the Indian tribe may, in lieu of such a hearing, file an appeal of the rejection to the Intra-Departmental Council on Native American Affairs, the decision of which shall be final and not subject to judicial review).

''(B) BURDEN OF PROOF.—In a hearing or appeal under subparagraph (A)(ii), the Secretary shall have the burden of proving by clear and convincing evidence the validity of the grounds for rejecting the final offer.

''(c) OTHER FUNDING.—Participation by an Indian tribe in the demonstration project under this title shall not affect the amount of funding that the Indian tribe would receive under the laws (including regulations) governing the included programs if the Indian tribe did not participate.

''(d) DUPLICATION OF ELIGIBILITY.—To the maximum extent practicable, an Indian tribe shall make efforts to coordinate with appropriate States to identify dually eligible individuals to address the potential for the provision of duplicate benefits.

''(e) APPEALS.—Except as provided in subsection (b)(2), a compact or funding agreement under this title shall be considered to be a contract for the purposes of section 110.

''(f) REGULATIONS; OTHER AGENCY STATEMENTS.—

''(1) REGULATIONS.—An Indian tribe shall comply with final regulations for the included programs in connection with the demonstration project.

''(2) OTHER AGENCY STATEMENTS.—Unless expressly agreed to by an Indian tribe in a compact or funding agreement, the Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule that is promulgated by regulation.

''(g) APPLICABILITY OF OTHER PROVISIONS.—The following provisions of this Act shall apply to a compact or funding agreements entered into under this title:

''(1) Section 102(d).

''(2) Section 506(b) (conflicts of interest).

''(3) Section 506(c)(1) (Single Agency Audit Act).

''(4) Section 506(c)(2) (cost principles).

''(5) Section 506(c) (records).

''(6) Section 507(c)(1)(A) (grounds for rejecting a final offers).

''(7) Section 508(g) (prompt payment).

''(8) Section 506(h) (nonduplication).

''(9) Section 508(h) (interest or other income on transfers).

''(10) Section 508(i) (carryover of funds).

''(11) Section 509 (construction projects)

''(12) Section 510 (Federal procurement laws)

''(13) Section 512(b) (regulation waivers).

''SEC. 607. REPORT.

''(a) IN GENERAL.—The Secretary shall annually submit to Congress a report on the relative costs and benefits of the demonstration project using evaluation and reporting data provided by participating Indian tribes.

''(b) BASELINE MEASUREMENTS.—

''(1) IN GENERAL.—A report under subsection (a) shall be based on baseline measurements developed jointly by the Secretary and participating Indian tribes.

''(2) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to Indian tribes to assist Indian tribes in evaluating and reporting on the demonstration project.

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

''(1) verify that the participating Indian tribes met the statutory purposes of the included programs;

''(2) confirm that key self-governance principles were carried out as Indian tribes operated the included programs; and

''(3) separately include Federal and tribal viewpoints regarding—

''(A) the merger of included programs operated under this title and self-governance principles; and

''(B) the impact on program beneficiaries.

''SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.''.

By Mr. DODD (for himself, Mr. SARBANES, and Mr. REED):

S. 1697. A bill to establish the elderly housing plus health support demonstration program to modernize public housing for elderly and disabled persons; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise today to introduce a bill that will help address a growing problem in America—our ability to provide safe and affordable housing that meets the needs of older Americans. Currently there are 35 million Americans over 65 years old. That number will double within the next 30 years. By 2030, 20 percent of the U.S. population will be over 65 years old.

Nearly one third of all public housing units are occupied by senior citizens. This figure has been steadily growing in recent years and will undoubtedly continue to grow in the future. It is critically important that we remain committed to providing low-income seniors with safe and affordable housing.

The bill I am introducing will promote the development of assisted living programs to provide a wide range of services, including medical assistance, housekeeping services, hygiene and grooming, and meals preparation. Providing these services will in turn give older Americans greater opportunities to decide for themselves where they live and how they exercise their independence.

The Elderly Housing Plus Supportive Health Support Demonstration Act, will provide Federal grants to allow public housing authorities around the country to develop new strategies for providing better housing for senior citizens. The bill will give public housing authorities the tools they need to improve our public housing stock so our seniors will not be prematurely forced out of their homes. The bill authorizes competitive grants through the Department of Housing and Urban Development to upgrade and reconfigure elderly buildings, and buildings with elderly and non-elderly disabled residents. The bill will also provide funding for service coordinators and/or congregate services programs.

Unfortunately, as we examine the public housing stock across the country from the perspective of older Americans, we find a bleak situation. Over 66 percent of existing public housing units are more than 30 years old and most are not designed to meet the needs of older Americans. For example, too few of our housing units are equipped to facilitate mobility for those in wheelchairs. Even such simple things as having a kitchen counter top that can be reached from a wheelchair may make the difference between a senior being able to stay in his or her home or having to leave, often to be sent to an institution where seniors have less independence and control over their lives.

Because most public housing seniors are Medicaid-eligible, the bill will also open a path to reducing Medicaid costs, 42 percent of which goes to housing elders in costly nursing homes. The cost to the Medicaid program of a beneficiary living in public housing converted to assisted living has been shown to be as much as one-third that paid to a nursing home on a long-term per capita basis.

The scarceness of affordable assisted living units has other social costs that we must consider as we set national housing policies for the future. Often, the cost of taking care of an aging family member can be devastating to American families. Too often, working men and women are torn between the need to maintain their jobs and the desire to provide the best possible care to their aging family members.

Advances in medicine are allowing us to live longer, healthier lives. Longevity is a great blessing, but it also poses significant challenges for individuals, families, and society as whole. One of the greatest challenges we will face in the decades ahead is the challenge of developing new kinds of housing that respond to the needs of our growing elderly population.

It is my hope that this bill will generate earnest discussion on these important matters and will ultimately lead to action to ensure that every American senior can live in security and dignity.

I ask unanimous consent that the text of the Elderly Housing Plus Health Support Demonstration Act be printed in the RECORD.

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

S. 1697

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 ''Elderly Housing Plus Health Support Demonstration Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are at least 34,100,000 Americans who are 65 years of age and older, and persons who are 85 years of age or older comprise almost one-quarter of that population;

(2) the Bureau of the Census of the Department of Commerce estimates that, by 2030, the elderly population will double to 70,000,000 persons;

(3) according to the Department of Housing and Urban Development report ''Housing Our Elders—A Report Card on the Housing Conditions and Needs of Older Americans'', the largest and fastest growing segments of the older population include many people who have historically been vulnerable economically and in the housing market—women, minorities, and people over the age of 85;

(4) many elderly persons are at significant risk with respect to the availability, stability, and accessibility of affordable housing;

(5) one-third of public housing residents are approximately 62 years of age or older, making public housing the largest Federal housing program for senior citizens;

(6) the elderly population residing in public housing is older, poorer, frailer, and more racially diverse than the elderly population residing in other assisted housing;

(7) two-thirds of the public housing developments for the elderly, including those that also serve the disabled, were constructed before 1970 and are in dire need of major rehabilitation and configuration, such as rehabilitation to provide new roofs, energy-efficient heating, cooling, utility systems, accessible units, and up-to-date safety features;

(8) many of the dwelling units in public housing developments for elderly and disabled persons are undersized, are inaccessible to residents with physical limitations, do not comply with the requirements under the Americans with Disabilities Act of 1990, or lack railings, grab bars, emergency call buttons, and wheelchair accessible ramps;

(9) a study conducted for the Department of Housing and Urban Development found that the cost of the basic modernization needs for public housing for elderly and disabled persons exceeds $5,700,000,000;

(10) a growing number of elderly and disabled persons face unnecessary institutionalization because of the absence of appropriate supportive services and assisted living facilities in their residences;

(11) for many elderly and disabled persons, independent living in a non-institutionalization setting is a preferable housing alternative to costly institutionalization, and would allow public monies to be more effectively used to provide necessary services for such persons;

(12) congregate housing and supportive services coordinated by service coordinators is a proven and cost-effective means of enabling elderly and disabled persons to remain in place with dignity and independence;

(13) the effective provision of congregate services and assisted living in public housing developments requires the redesign of units and buildings to accommodate independent living;

(14) most of the elderly who reside in public housing are eligible for Medicaid to pay for the cost of their being institutionalized in nursing homes;

(15) nursing home costs now exceed 42 percent of the entire Medicaid program; and

(16) by providing a nursing home resident the choice of assisted living in public housing instead, the Federal Government can save as much as three-quarters of the long term per capita Medicaid costs and at the same time allow a frail senior to age in place.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a demonstration program to make competitive grants to provide state-of-the-art, health-supportive housing with assisted living opportunities for elderly and disabled persons;

(2) to provide funding to enhance, make safe and accessible, and extend the useful life of public housing developments for the elderly and disabled and to increase their accessibility to supportive services;

(3) to provide elderly and disabled public housing residents a readily available choice in living arrangements by utilizing the services of service coordinators and providing a continuum of care that allows such residents to age in place;

(4) to incorporate congregate housing service programs more fully into public housing operations; and

(5) to accomplish such purposes and provide such funding under existing provisions of law that currently authorize all activities to be conducted under the program.

SEC. 3. DEFINITIONS.

In this Act:

(1) ASSISTED LIVING FACILITY.—The term ''assisted living facility'' means any public housing project for the elderly, or for the elderly and the non-elderly disabled, that is operated in accordance with applicable laws and provides to the residents any combination of the following services:

(A) Meal service adequate to meet nutritional need.

(B) Housekeeping aid.

(C) Personal assistance.

(D) Transportation services.

(E) Health-related services.

(F) Such other services as are considered important for maintaining independent living.

(2) ELDERLY AND DISABLED FAMILIES.—The term ''elderly and disabled families'' means families in which 1 or more persons is an elderly person or a person with disabilities.

(3) ELDERLY PERSON.—The term ''elderly person'' means a person who is 62 years of age or older.

(4) PERSON WITH DISABILITIES.—The term ''person with disabilities'' has the same meaning as in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)).

(5) PUBLIC HOUSING AGENCY.—The term ''public housing agency'' has the same meaning as in section 3(b)(6)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)(A)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 4. AUTHORITY FOR ELDERLY HOUSING PLUS HEALTH SUPPORT PROGRAM.

The Secretary shall establish an elderly housing plus health support demonstration program (referred to in this Act as the ''demonstration program'') in accordance with this Act to provide coordinated funding to public housing projects for elderly and disabled families selected for participation under section 5, to be used for—

(1) rehabilitation or re-configuration of such projects or the acquisition and rehabilitation of an existing assisted living facility in cases where the public housing agency has no elderly housing stock suitable for conversion;

(2) the provision of space in such projects for supportive services and community and health facilities;

(3) the provision of service coordinators for such projects; and

(4) the provision of congregate services programs in or near such projects.

SEC. 5. PARTICIPATION IN PROGRAM.

(a) APPLICATION AND PLAN.—To be eligible to be selected for participation in the demonstration program, a public housing agency shall submit to the Secretary—

(1) an application, in such form and manner as the Secretary shall require; and

(2) a plan for the agency that—

(A) identifies the public housing projects for which amounts provided under this Act will be used, limited to projects that are designated or otherwise used for occupancy—

(i) only by elderly families; or

(ii) by both elderly families and disabled families; and

(B) provides for local agencies or organizations to establish or expand the provision of health-related services or other services that will enhance living conditions for residents of public housing projects of the agency, primarily in the project or projects to be assisted under the plan.

(b) SELECTION AND CRITERIA.—

(1) SELECTION.—The Secretary shall select public housing agencies for participation in the demonstration program based upon a competition among public housing agencies that submit applications for participation.

(2) CRITERIA.—The competition referred to in paragraph (1) shall be based upon—

(A) the extent of the need for rehabilitation or re-configuration of the public housing projects of an agency that are identified in the plan of the agency pursuant to subsection (a)(2)(A);

(B) the past performance of an agency in serving the needs of elderly public housing residents or non-elderly, disabled public housing residents given the opportunities in the locality;

(C) the past success of an agency in obtaining non-public housing resources to assist such residents given the opportunities in the locality; and

(D) the effectiveness of the plan of an agency in creating or expanding services described in subsection (a)(2)(B).

SEC. 6. CONFIGURATION AND CAPITAL IMPROVEMENTS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to public housing agencies selected for participation under section 5, to be used only—

(A) for capital improvements to rehabilitate or configure public housing projects identified in the plan submitted under section 5(a)(2)(A);

(B) to provide space for supportive services and for community and health-related facilities primarily for the residents of projects identified in the plan submitted under section 5(a)(2)(A); and

(C) for the cost of acquisition by a public housing agency of an existing assisted living facility that is in need of rehabilitation in cases where the public housing agency has no elderly housing stock suitable for conversion.

(2) SOURCE OF FUNDS.—Grants shall be made under this section from funds made available for the demonstration program in accordance with subsection (c).

(3) INAPPLICABILITY OF OTHER PROVISIONS.—Section 9(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)(1)) does not apply to grants made under this section.

(b) ALLOCATION.—Grants funded in accordance with this section shall—

(1) be allocated among public housing agencies selected for participation under section 5 on the basis of the criteria established under section 5(b)(2); and

(2) be made in such amounts and subject to such terms as the Secretary shall determine.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the demonstration program, to make grants in accordance with this section—

(1) $100,000,000 for fiscal year 2004; and

(2) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.

SEC. 7. SERVICE COORDINATORS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to public housing agencies selected for participation under section 5, to be used only—

(A) for public housing projects for elderly and disabled families for whom capital assistance is provided under section 6; and

(B) to provide service coordinators and related activities identified in the plan of the agency pursuant to section 5(a)(2), so that the residents of such public housing projects will have improved and more economical access to services that support the health and well-being of the residents.

(2) SOURCE OF FUNDS.—Grants shall be made under this section from funds made available for the demonstration program in accordance with subsection (c).

(3) INAPPLICABILITY OF OTHER PROVISIONS.—Section 9(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)(1)) does not apply to grants made under this section.

(b) ALLOCATION.—The Secretary shall provide a grant pursuant to this section, in an amount not to exceed $100,000, to each public housing agency that is selected for participation under section 5.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the demonstration program, to make grants in accordance with this section—

(1) $2,000,000 for fiscal year 2004; and

(2) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.

SEC. 8. CONGREGATE HOUSING SERVICES PROGRAMS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to public housing agencies selected for participation under section 5, to be used only—

(A) in connection with public housing projects for elderly and disabled families for which capital assistance is provided under section 6; and

(B) to carry out a congregate housing service program identified in the plan of the agency pursuant to section 5(a)(2) that provides services as described in section 202(g)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(g)(1)).

(2) SOURCE OF FUNDS.—Grants shall be made under this section from funds made available for the demonstration program in accordance with subsection (c).

(3) INAPPLICABILITY OF OTHER PROVISIONS.—Other than as specifically provided in this section—

(A) section 9(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)(1)) does not apply to grants made under this section; and

(B) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) does not apply to grants made under this section.

(b) ALLOCATION.—The Secretary shall provide a grant pursuant to this section, in an amount not to exceed $150,000, to each public housing agency that is selected for participation under section 5.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the demonstration program, to make grants in accordance with this section—

(1) $3,000,000 for fiscal year 2004; and

(2) such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year.

SEC. 9. SAFEGUARDING OTHER APPROPRIATIONS.

Amounts authorized to be appropriated under this Act to carry out this Act are in addition to any amounts authorized to be appropriated under any other provision of law, or otherwise made available in appropriations Acts, for rehabilitation of public housing projects, for service coordinators for public housing projects, or for congregate housing services programs.

By Mr. ENZI (for himself, Mr. GREGG, Mr. BOND, and Mr. SANTORUM):

S. 1698. A bill to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to promote the provision of retirement investment advice to workers managing their retirement income assets; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, with the passage of the Sarbanes-Oxley Act, Congress acted swiftly and surely to restore investor confidence in our capital markets. Something needed to be done to assure people that it was OK for them to start investing in and relying on the market again. People wanted to feel certain that the rules had been fixed and the market was fair for all.

Although I am proud we were able to do that, we all knew that there was still more that needed to be done to help the millions of American workers whose retirement savings are fueled by the financial markets.

There's a gap that still threatens the retirement security of the 42 million Americans who participate in defined contribution plans, like 401(k) plans. In defined contribution plans, the employee—not the employer—decides how much and how to invest retirement assets. As anyone who has been investing their hard earned dollars through their employer provided plans knows, there are quite a few choices out there. They each have their own risks and rewards, but they have one thing in common—they require an employee who is investing his or her pay to have a good sense of the market. Employees find themselves having to navigate bull and bear markets, weather changes in personal and professional circumstances, and use long-term planning to set a course that leads to retirement security.

401(k) plans provide great opportunity as well as risk. The difference between the employee who can maximize opportunity and minimize risk and the employee who cannot is sound investment advice. Unfortunately, only 16 percent of plan participants have an investment advisory service available to them through their retirement plans. This survey by the Spectrum Group confirms the existence of an advice gap that must be addressed. The legislation I am introducing today is intended to close the advice gap and help workers choose wisely and chart their course to retirement security.

Both workers and employers are acutely aware of the advice gap. According to the 2002 Transamerica Small Business Retirement Survey, 76 percent of employees felt they don't know as much about retirement investing as they should—up from 65 percent in 2001. This view is held even more strongly by employers, with 91 percent believing their workers don't know enough about retirement investing.

There is another gap that exists with respect to retirement investment advice. Wealthier individuals or high-level executives are more likely to have access to quality investment advice than rank-and-file workers. The Retirement Security Advice Act of 2003 will bring access to quality investment advice, and thereby retirement security, to rank-and-file workers who need it most, particularly those employed at small businesses.

Access to investment advice has not kept pace with either the increasing number of workers participating in 401(k) plans or the increasing complexity of investment options. What accounts for the gulf between the need for and the supply of investment advice?

The 1974 Employee Retirement Income Security Act (ERISA) imposes outdated barriers to the provision of investment advice to workers participating in 401(k) plans. ERISA prevents investment advisors who have an affiliation with the investment options available under the plan from providing investment advice to plan participants. This restriction might have

seemed reasonable in 1974 when retirement plans were dominated by traditional defined benefit pension plans. However, the explosion in 401(k) plans—and thus the need to provide workers with investment advice services—was not imagined in 1974.

This bill will allow employers to provide their employees with access to quality investment advice so long as the advisors fully and clearly disclose their fees and any potential conflicts of interest. Furthermore, investment advisors are subject to ERISA's stringent fiduciary obligations, which requires them to act solely in the best interest of plan participants. Investment advisors who breach this fiduciary duty are subject to a lawsuit by the worker, another plan fiduciary, the plan itself, or the Department of Labor. Employers also have the fiduciary obligation of prudently selecting and periodically reviewing advice providers.

Let us remember that workers are not required to either seek or follow the investment advice. All advice given is strictly voluntary. With clear and full disclosure of fee arrangements and potential conflicts of interest, plan participants can decide for themselves whether or not to act on it.

Some of my colleagues might argue that only independent investment advisors should be allowed to provide investment advice to plan participants. This ignores both the realities of the marketplace for investment advice and the needs of employees and employers. Excluding many of the most qualified financial services companies from offering investment advice to plan participants will leave a large void in the 401(k) advice marketplace. Conversely, increasing competition in this marketplace will promote better quality and lower costs—both to the benefit of plan participants.

Restricting the provision of investment advice services to independent advisors ensures that the advice gap will remain wide—particularly at small businesses. Employers would be required to look outside of their plan's current administrative arrangement and hire another financial institution to provide investment advice services to employees. For small companies like those in Wyoming, meeting this criteria would be almost impossible. Small employers face unique resource and personnel limitations. The cost of researching, selecting, and paying for the services of an independent advice provider will deter small employers from providing this valued benefit to employees.

The key to retirement security for 401(k) participants is quality investment advice, tailored to the needs of each worker. The key to expanding the number of workers getting such advice is increasing competition in the marketplace for investment advice while providing meaningful protection and disclosure to workers. The Retirement Security Advice Act will open the door to both.

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. 1698

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the ''Retirement Security Advice Act of 2003''.

SEC. 2. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

''(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

''(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

''(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

''(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

''(B) The transactions described in this subparagraph are the following:

''(i) the provision of the advice to the plan, participant, or beneficiary;

''(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

''(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.''.

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

''(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

''(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

''(A) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

''(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

''(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

''(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

''(iv) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

''(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

''(vi) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property,

''(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

''(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

''(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

''(E) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

''(2) STANDARDS FOR PRESENTATION OF INFORMATION.—

''(A) IN GENERAL.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

''(B) MODEL FORM FOR DISCLOSURE OF FEES AND OTHER COMPENSATION.—The Secretary shall issue a model form for the disclosure of fees and other compensation required in paragraph (1)(A)(i) which meets the requirements of subparagraph (A).

''(3) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of paragraph (1)(A) in currently accurate form and in the manner described in paragraph (2) or fails—

''(A) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

''(B) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

''(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), to provide, without charge, such currently accurate information to the recipient of the advice at a

time reasonably contemporaneous to the material change in information.

''(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

''(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

''(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

''(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

''(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

''(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

''(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

''(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

''(A) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

''(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

''(ii) a bank or similar financial institution referred to in section 408(b)(4) or a savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1))), but only if the advice is provided through a trust department of the bank or similar financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities,

''(iii) an insurance company qualified to do business under the laws of a State,

''(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

''(v) an affiliate of a person described in any of clauses (i) through (iv), or

''(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

''(B) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

''(C) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)) (substituting the entity for the investment adviser referred to in such section).''.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended—

(A) in paragraph (14), by striking ''or'' at the end;

(B) in paragraph (15), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following new paragraph:

''(16) any transaction described in subsection (f)(7)(A) in connection with the provision of investment advice described in subsection (e)(3)(B)(i), in any case in which—

''(A) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

''(B) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

''(C) the requirements of subsection (f)(7)(B) are met in connection with the provision of the advice.''.

(2) ALLOWED TRANSACTIONS AND REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(7) PROVISIONS RELATING TO INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—

''(A) TRANSACTIONS ALLOWABLE IN CONNECTION WITH INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—The transactions referred to in subsection (d)(16), in connection with the provision of investment advice by a fiduciary adviser, are the following:

''(i) the provision of the advice to the plan, participant, or beneficiary;

''(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

''(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

''(B) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—The requirements of this subparagraph (referred to in subsection (d)(16)(C)) are met in connection with the provision of investment advice referred to in subsection (e)(3)(B), provided to a plan or a participant or beneficiary of a plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

''(i) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

''(I) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

''(II) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

''(III) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

''(IV) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

''(V) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

''(VI) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property,

''(ii) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

''(iii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

''(iv) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

''(v) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

''(C) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under subparagraph (B)(i) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

''(D) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser

fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in currently accurate form and in the manner required by subparagraph (C), or fails—

''(i) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

''(ii) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

''(iii) in the event of a material change to the information described in subclauses (I) through (IV) of subparagraph (B)(i), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

''(E) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in subparagraph (B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(16) have been met. A transaction prohibited under subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

''(F) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—A plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this section solely by reason of the provision of investment advice referred to in subsection (e)(3)(B) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

''(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

''(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this paragraph,

''(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice, and

''(iv) the requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are met in connection with the provision of such advice.

''(G) DEFINITIONS.—For purposes of this paragraph and subsection (d)(16)—

''(i) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

''(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

''(II) a bank or similar financial institution referred to in subsection (d)(4) or a savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1))), but only if the advice is provided through a trust department of the bank or similar financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities,

''(III) an insurance company qualified to do business under the laws of a State,

''(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

''(V) an affiliate of a person described in any of subclauses (I) through (IV), or

''(VI) an employee, agent, or registered representative of a person described in any of subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

''(ii) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

''(iii) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)) (substituting the entity for the investment adviser referred to in such section).''.

Mr. BOND. Mr. President, I rise today to cosponsor the Retirement Security Advice Act of 2003, introduced by my good friend from Wyoming, Senator MIKE ENZI. I do so because this bill holds important implications for small businesses in this county and for the millions of Americans they employ.

In 1996, we created the Savings Incentive Match Plans for Employees (SIMPLE) as a pension-plan option for small firms in this country. The goal was a simple one: provide a pension plan with low administrative costs for employers so they can offer pension benefits to encourage employees to save for their retirement. I am pleased that these plans have become quite popular, and together with the other pension simplifications and improvements enacted since then, they have contributed to better access to pension benefits by small businesses and their employees.

Greater retirement savings, however, have raised new and complex issues for many employees who have seen their pension accounts grow substantially. As a member of both the Senate Small Business Committee and the Health, Education, Labor, and Pension Committee, I have heard many constitents raise difficult questions in this area: What are appropriate investments for my personal circumstances and risk tolerance? Should I buy stocks, bonds, annuities, or something else? How should I diversify my investments? When should I modify my investment mix? And so on.

The importance of these questions has increased substantially in light of recent high-profile business failures and economic downtown. Gone are the days of the momentum market where any dollar invested seemed to grow with little effort or no risk.

The return to more cautious investing has left employees who participate in employer-sponsored pension plans in a real dilemma—hire an outside investment advisor or go it alone in most cases. Why? Current pension rules effectively preclude most employers from offering investment advice to their employees. In fact, recent estimates are that only about 16 percent of participants have access to investment advice through their pension plan. In today's complex investment environment that is simply too little help for employees who are trying to manage their retirement security.

Senator ENZI's bill addresses this situation in a responsible way. For most businesses, and particularly small firms, the logical place to look for an investment advisor would be the company that manage's the plan's investment options or an affiliated firm. Under Senator ENZI's bill that option would now be available, opening the door for countless businesses to offer this important benefit at a low cost to their employees who participate in the company's pension plan. In addition, by allowing more businesses to offer investment-advice benefits, the bill creates an opportunity for increased competition among investment advisors, which can lead to better advice products and lower costs overall.

Senator ENZI's bill, however, does not simply change the rules to help the business community. It also includes critical protections for the plan participants. Investment advisors must satisfy strict requirements concerning their qualifications, and they must disclose on a regular basis all their business relationships, fees, and potential conflicts of interest directly to the participants. In addition, and arguably most importantly, the investment advisor must assume fiduciary liability for the investment advice it renders to the employee participants in the plan. In short, if the investment advisor does not act solely in the interest of the participant, it will be liable for damages resulting from the breach of its fidicuary duty. Together, the bill's provisions provide substantive safeguards to protect the interests of the plan participants who take advantage of the new investment-advice benefit.

Some have contended that a better alternative is to force small businesses to engage an independent third party to provide investment advice. I disagree. The result would simply be the same as under current law. Cost is a real issue for small businesses seeking to offer benefits like pension plans and related investment advice—hence, the genesis of the SIMPLE pension plan. As under the current rules, if the only option is a costly outside advisor, the small firm will not offer the investment-advise benefit. As a result, we would not move the ball even a yard further—employers would still be left to their own devices to figure out the complex world of investing or they would have to seek out and hire their own advisor, which few have the wherewithal to do.

More to the point, nothing under the Enzi bill prevents a business from engaging an independent advisor if the employer deems that the best alternative. The standard under the Enzi bill for selecting the investment advisor is prudence; the same criteria that the employer must exercise under current law when selecting the company

that manages the pension plan and its investment options. If a prudent person would not hire or retain the investment advisor, then under the Enzi bill, the employer should not do so either or face liability for breach of fiduciary duty. Again, additional protection for the plan participants.

In my assessment, investment advice is an increasingly important benefit that employers want and need. Morover, small businesses in particular need the flexibility to offer benefits that keep them competitive with big companies as they seek to hire and retain the very best employees possible. And when we talk about small businesses, we are not dealing with an insignificant employer in this country. In fact, according to Small Business Administration data, small businesses represent 99 percent of all employers and provide 60 to 80 percent of the net new jobs annually in this country.

The Retirement Security Advice Act provides a carefully balanced and responsible solution to this situation. Most importantly, it provides a solution that employers will actually use to offer the investment advice sought by their employers who struggle to put money aside in the hopes of having a nest egg that someday will provide them with a comfortable retirement. I am pleased to co-sponsor this bill and look forward to working with my colleague from Wyoming to see it enacted into law.

By Mr. INHOFE:

S. 1699. A bill to amend the Head Start Act to require parental consent for nonemergency intrusive physical examinations; to the Committee on Health, Education, Labor and Pensions.

Mr. INHOFE. Mr. President, today I am introducing legislation to require parental consent for intrusive physical exams, genital exams, administered under the Head Start program.

Young children attending Head Start programs should not be subjected to these invasive exams without the prior knowledge or consent of their parents. While the Department of Health and Human Services has administered general exam guidelines to agencies, the U.S. Code is not clear about prohibiting them without parental consent. My bill will clarify the Code by not allowing any non-emergency invasive genital exam by a Head Start agency without parental consent.

As a father and grandfather, I believe it is vital for parents to be informed about what is happening to their children in the classroom. I hope that my colleagues will join me in support of this important bill.

By Mr. HATCH (for himself, Mr. BIDEN, Mr. SPECTER, Mr. LEAHY, Mr. DEWINE, Mrs. FEINSTEIN, Mr. SMITH, Mr. KENNEDY, Ms. COLLINS, Mr. SCHUMER, Mr. WARNER, Mr. DURBIN, Mr. CAMPBELL, Mr. KOHL, Mrs. CLINTON, Ms. CANTWELL, Mrs. MURRAY, and Ms. LANDRIEU):

S. 1700. A bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce a comprehensive bipartisan bill which will ensure the full use and availability of DNA technology in our criminal justice system. This bill, which enacts the President's DNA technology initiative, announced by Attorney General Ashcroft on March 11, 2003, will provide over $1 billion in funding and assistance over the next 5 years to the criminal justice system in order to realize the full potential of DNA technology to solve crimes, protect the public and exonerate the innocent.

The legislation I am introducing today represents a bipartisan compromise which was reached through extensive negotiations among Senators on the Judiciary Committee and members from the House Committee on the Judiciary. I want to first commend my counterpart, Chairman SENSENBRENNER, for his steady leadership on this issue and his commitment to reaching an agreement, and note the commitment and dedication of Representatives CONYERS, COBLE, LAHOOD, and DELAHUNT to this important initiative.

I also want to commend my colleagues here in the Senate: Senators BIDEN, SPECTER, LEAHY, DEWINE, and FEINSTEIN—who each have a longstanding commitment to issues included in this comprehensive DNA bill. We have worked together on DNA issues for many years, and thanks to each of their efforts we now are in the position to enact bipartisan legislation that enhances the use of DNA technology in our criminal justice system. I want to express my personal thanks to all of them for their leadership and contributions to this important piece of legislation.

Also, I want to highlight specifically the accomplishment today of the ranking member of our Judiciary Committee, Senator LEAHY. For several years, Senator LEAHY has dedicated himself to the issue of DNA technology and ensuring that such technology is used to protect the integrity of our criminal justice system by exonerating the innocent while punishing the guilty. He has worked tirelessly in this area as the sponsor of the Innocence Protection Act. While we both shared a common goal of protecting the integrity of our criminal justice system, we differed on the means to accomplish that end.

Today, I am proud to support the compromise proposal we have negotiated, and join together with my friend, Senator LEAHY, to introduce the Innocence Protection Act of 2003 as part of this legislative package. I want to specifically congratulate Senator LEAHY for his accomplishment and for his dedication to this important issue.

It is perhaps fitting that 50 years after the discovery of DNA by Dr. James Watson in 1953, we are now proposing to enact the most far-reaching and comprehensive expansion of DNA technology to promote public safety, to bring to justice violent criminals who can be identified through DNA technology, and to ensure the accuracy of our criminal justice system.

Let me take a moment to highlight the important provisions of this bill.

The bill enacts the President's comprehensive DNA initiative, ''Advancing Justice Through DNA Technology,'' and will authorize funding of $755 million for the Debbie Smith DNA Backlog Grant Program in order to eliminate the current backlog of unanalyzed DNA samples in our Nation's crime labs. It is critical that such funding be appropriated to ensure that unanalyzed evidence from violent crime scenes, such as rape and murder, are compared against known DNA samples to solve these terrible crimes and apprehend the perpetrators.

As many of you know, Debbie Smith is the courageous survivor of a horrific sexual assault, and has become a leading spokesperson for women and crime victims across the country. Debbie Smith waited 6 years before Norman Jimmerson, a current inmate in a Virginia prison, was identified as her attacker through DNA. Debbie testified against Jimmerson, who is now serving two life sentences plus 25 years with no chance of parole.

Debbie Smith has dedicated herself to the elimination of the backlog in the processing of DNA evidence and samples. By eliminating the substantial backlog of DNA samples for the most serious violent offenses, we can solve more crimes, protect the public and apprehend more violent criminals. The National Institute of Justice estimates that the current backlog of rape and homicide cases is at least 350,000 cases. NIJ also estimates that there are between 300,000 and 500,000 collected, but untested convicted offender samples. In addition, the Justice Department estimates that there are between 500,000 and 1,000,000 convicted offender samples which have not yet been collected as required by law.

The President has directed the Justice Department to eliminate these backlogs completely within 5 years, and I am committed to doing everything in my power to make that a reality to ensure that the evidence is analyzed, the crimes solved and the criminals punished to the fullest extent of the law.

The proposed legislation also will solve more crimes by expanding State and local crime lab capacity to test DNA. Crime laboratories face increasing workloads and increased DNA analysis demands. Only 10 percent of public crime labs have automated facilities needed to process DNA testing, and help is needed in this area. We must expand the capacity of these laboratories to meet current demand and build for future needs. That is what the bill will do.

The bill also will increase research and development of new technologies to test DNA; provides training of criminal justice professionals to enhance collection and understanding of DNA evidence; and expands existing programs to train medical personnel who typically are the first to have contact with sexual assault victims so that they can collect and preserve critical biological evidence for DNA testing and comparison purposes.

Some have suggested that focusing exclusively on DNA technology ignores the significant need for funding and assistance to State and local crime labs for non-DNA forensic analyses. The proposed bill expands the Paul Coverdell Grant Program to provide assistance to the States to eliminate non-DNA forensic evidence backlogs. I recognize that forensic examination of ballistics evidence, fingerprints, suspected illegal drugs, and other evidence is critical to our criminal justice system. I am committed to addressing these needs as well in order to protect the public.

The legislation will not only speed the apprehension and prosecution of the guilty, but will protect the innocent from wrongful prosecution. DNA technology allows us to exclude innocent people as suspects early in an investigation, and allows law enforcement to focus on finding the true perpetrator.

The Innocence Protection Act of 2003, developed under the leadership of Senator LEAHY, which is included as Title III of this bill, creates a federal post-conviction DNA testing scheme which authorizes DNA testing and relief for a convicted defendant, where the defendant claims he is ''actually innocent'' of the crime, and demonstrates that such testing shows that they did not commit the crime. DNA testing will not be permitted where such a test would only muddy the waters and be used by the defendant to fuel a new and frivolous series of appeals. Under the Act, DNA testing in capital cases will be prioritized and conducted on a ''fast track,'' so that these important cases are handled quickly.

In order to discourage a flood of baseless claims, the act authorizes the prosecution of defendants who make false claims of innocence in support of a DNA testing request. Each defendant will be required to assert under penalty of perjury that they are, in fact, innocent of the crime. When DNA testing reveals that the defendant's claim of innocence was actually false, the defendant can then be prosecuted and, if convicted, will be subject to a consecutive term of imprisonment of 3 years. Further, the act allows DNA test results to be entered into the CODIS database and compared against unsolved crimes. If the test result shows that the defendant committed another crime, the defendant may then be prosecuted for the other crime.

With respect to the States, the act encourages States to create similar DNA testing procedures, and provides funding assistance to those States that have existing DNA testing programs or that implement such DNA testing programs after enactment of this act. In honor of Kirk Bloodsworth, a death row inmate, who was eventually freed through post-conviction DNA testing, the bill creates and names a grant program after Mr. Bloodsworth to help the States conduct appropriate post-conviction DNA testing. With the new source of funding, more States will enact DNA testing programs, and will provide such testing on an expedited basis.

While DNA testing is now standard in pretrial criminal investigations today, the integrity of our criminal justice system and in particular, our death penalty system, can be enhanced with the appropriate use of DNA testing. No one disagrees with the fact that post-conviction DNA testing should be made available to defendants when it serves the ends of justice. I am convinced that the proposed legislation does so fairly and effectively with proper regard for the rights of the defendant and the interests of victims and their families.

Finally, Title III of the bill creates a new grant program to improve the performance of counsel—prosecutors and defense counsel—handling State capital cases. The issue of the death penalty in our country continues to spark significant debate. The recent Supreme Court decisions addressing capital punishment underscore the importance of this issue to the American people. It is an issue that engenders great passion, both among its supporters and among its opponents. A large majority of the American people believe in the death penalty, especially for terrorists who have killed thousands of Americans. And all of us agree that the death penalty must be imposed fairly and accurately.

I have stated on numerous occasions my views on the death penalty. It is the ultimate punishment and it should be reserved only for those defendants who commit the most heinous of crimes. I am firmly convinced that we must be vigilant in ensuring that capital punishment is meted out fairly against those truly guilty criminals. We cannot and should not tolerate defects in the capital punishment system. No one can disagree with this ultimate and solemn responsibility.

I have disagreed with others on the committee as to the state of our Nation's capital punishment system, the quality of representation in State capital cases, and whether such sentences are meted out fairly. I am proud, however, to support this proposal where we can all agree—we can improve the performance of counsel on both sides by awarding grants to States. These funds will be equally divided between prosecutors and defense counsel, and are designed to reduce to the maximum extent possible the occurrence of error in the conduct of capital trials in our States. We all agree that reducing trial error is a laudable goal. By doing so, we enhance the fairness of our capital punishment system.

Every defendant in our criminal justice system is afforded the guarantee by the sixth amendment of our Constitution of competent and effective counsel. The Supreme Court has enforced this right in numerous decisions in order to ensure that all defendants are afforded the constitutional protections guaranteed to them.

At the same time, the public is entitled to quality representation by prosecutors who handle capital cases. Training and monitoring the performance of prosecutors who handle these important cases will ensure that States and the public are fully and effectively served in the trial of capital cases.

Contrary to the view of some, I do not believe that our capital punishment is broken. However, I do believe that our justice system can always be improved. The grants proposed under the act will enable states to improve the performance of prosecutors and defense counsel to ensure that capital cases are handled more efficiently and effectively, and that every capital defendant will receive a fair trial under our justice system.

DNA technology has the power to convict the guilty and protect the innocent and will move our criminal justice system into a new era that is both fair and efficient. The President's DNA initiative is a forward-looking measure, which will improve significant aspects of federal, state and local criminal justice systems. We are poised to enter that new era. With this comprehensive proposal, we will ensure the use of DNA technology and protect the public safety.

I strongly urge my colleagues to join with me in promptly passing this important legislation.

Mr. President, I ask unanimous consent to print in the RECORD a section-by-section analysis.

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

ADVANCING JUSTICE THROUGH DNA TECHNOLOGY ACT OF 2003

SECTION-BY-SECTION ANALYSIS

Overview

The Advancing Justice Through DNA Technology Act increases Federal resources available to State and local governments to combat crimes with DNA technology, and provides safeguards to prevent wrongful convictions and executions. The bill enacts the President's DNA Initiative, which provides

over $1 billion in the next five years to assist Federal and State authorities to realize the full potential of DNA technology to solve crimes and protect the innocent.

Title I and II, the DNA Sexual Assault Justice Act and the Rape Kits and DNA Evidence Backlog Elimination Act, [of the bill] authorize the Debbie Smith DNA Backlog Grant Program, which provides $755 million over five years to address the DNA Backlog crisis in the nation's crime labs. The bill also establishes over $500 million in new grant programs [together with grant programs] to reduce other forensic science backlogs, train criminal justice and medical personnel in the use of DNA evidence, and promote the use of DNA technology to identify missing persons.

Title III of the bill, the Innocence Protection Act, provides access to post-conviction DNA testing in federal cases, helps States improve the quality of legal representation in capital cases, and increases compensation in Federal cases of wrongful conviction. In addition, Title III authorizes the Kirk Bloodsworth Post-Conviction DNA Testing Program and provides $25 million over five years to defray the costs of post-conviction DNA testing.

TITLE I—RAPE KITS AND DNA EVIDENCE BACKLOG ELIMINATION ACT OF 2003

Sec. 101. Short Title. This title may be cited as the ''Rape Kits and DNA Evidence Backlog Elimination Act of 2003.''

Sec. 102 [The]Debbie Smith DNA Backlog Grant Program. Reauthorizes and expands the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135), increasing the authorized funding levels for the DNA Analysis Backlog Elimination program to $151 million annually for the next five years, as proposed in the President's DNA initiative.

Subsection (a) names the Backlog Elimination Act grant program in honor of Debbie Smith, a rape survivor and leader in promoting the use of the DNA technology to solve crimes. In addition, subsection (a) amends he eligibility provisions to add ''units of local government'' as [a] potential grantees, so that Federal resources can meet local needs more quickly.

Subsection (b)(1) provides a single annual authorization for the program, and modifies existing program objectives by: (1) adding the collection of DNA samples from convicted offenders as a specific program purpose (proposed 42 U.S.C. 14135(a)(4)); (2) ensuring that DNA testing and analysis of samples from crime scenes (such as rape kits and biological material found at homicide scenes), including sexual assault and other serious violent crimes, are carried out in a timely manner (proposed 42 U.S.C. 14135(a)(5)); and (3) revising the existing objective in 41 U.S.C. 14135(a)(3), to clarify that funds can be used to increase the capacity of public laboratories to carry out analysis of DNA samples.

Subsection (c) modifies 42 U.S.C. 14135(c) to provide for the disbursement of grant funds by the Attorney General in conformity with a formula that maximizes the effective use of DNA technology to solve crimes and protect public safety, and addresses areas where significant backlogs exist. A minimum grant amount of 0.50 percent is to be awarded to each State, and a specified percentage of remaining funds will be awarded to conduct DNA analyses of samples from casework [or victims of crime].

Conversion of the Backlog Elimination Act grant program into a formula grant program will ensure that funds will be fairly distributed among all eligible jurisdictions. It is expected that the factors given weight in the formula will include the magnitude and nature of the DNA backlogs and current DNA work demands in the jurisdictions that seek funding; deficits in public laboratory capacity for the timely and efficient analysis of DNA samples in these jurisdictions, and cost requirements for remedying these deficits; and the ability of these jurisdictions to use the funds to increase DNA analysis and public laboratory capacity for such analysis. It is further expected that the formula will target funding on the use of DNA analysis to solve the most serious violent crimes, including rapes and murders, whose solution through DNA testing promises the greatest return in promoting public safety.

Subsection (k) reserves no more than 1 percent of the grant amounts to assist State and local crime labs to become accredited, and to undergo regular external audits, in order to ensure that such labs fully comply with Federal quality assurance standards.

Sec. 103. Expansion of Combined DNA Index System. Amends the statute governing the Combined DNA Index System (CODIS) to allow States to include in the DNA index the DNA profiles of all persons whose DNA samples have been collected under applicable legal authorities, including those authorized by State law, all felons convicted of Federal crimes, and qualifying military offenses.

Sec. 104. Tolling of State of Limitations [Limitation Period for Prosecution in Cases Involving DNA Identification]. Provides that, in a case where DNA testing implicates an identified person in the commission of a felony, except for a felony offense under chapter 109A, no statute of limitations would preclude prosecution of the offense until a time period equal to the statute of limitations has elapsed from the date of identification of the perpetrator.

Sec. 105. Legal Assistance for Victims of Dating Violence. Amends the Violence Against Women Act to include legal assistance for victims of ''dating violence,'' defined as violence committed by a person: (1) who is or has been in a romantic or intimate relationship with the victim; and (2) where the existence of such relationship is determined based upon consideration of its length and its type, and upon the frequency of interaction between the persons involved.

Sec. 106. Ensuring Private Laboratory Assistance in Eliminating DNA Backlog. Clarifies that grants may be made through vouchers and contracts to private for-profit laboratories to assist in collection of DNA samples from offenders and processing of crime scene DNA evidence.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

Sec. 201. Short Title. This title may be cited as the ''DNA Sexual Justice Act of 2003.''

Sec. 202. Ensuring Public Crime Laboratory Compliance with Federal Standards. Requires that eligible State and local government public crime labs are accredited and undergo external audits, not less than once every 2 years, to demonstrate compliance with Federal standards established by the Federal Bureau of Investigation.

Sec. 203. DNA Training and Education for Law Enforcement, Correctional Personnel, and Court Officers. Authorizes grants to provide training, technical assistance, educational and information relating to the identification, collection, preservation, analysis and use of DNA samples and DNA evidence by law enforcement personnel and other first responders who collect or examine crime scene evidence; court officers, including prosecutors, defense lawyers and judges; forensic science professionals; and corrections personnel. The grant program is authorized through 2009 at $12.5 million per year.

Sec. 204. Sexual Assault Forensic Exam Program Grants. Authorizes grants to provide training, technical assistance, education and information relating to the identification, collection, preservation, analysis and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other medical professionals, including existing sexual assault and sexual assault examination programs (Sexual Assault Nurse Examiner (SANE), Sexual Assault Forensic Examiner (SAFE), and Sexual Assault Response Team (SART)). The grant program is authorized through 2009 at $30 million per year.

Sec. 205. DNA Research and Development. Authorizes grants for research and development to improve forensic DNA technology, including funding of demonstration projects involving law enforcement agencies and criminal justice participants to evaluate the use of forensic DNA technology. Also authorizes the Attorney General to establish a new Forensic Science Commission, composed of members from the forensic science and criminal justice communities, which will be responsible for examining various issues, including: (1) maximizing the use of forensic sciences to solve crimes and protect public safety; (2) increasing the number of qualified forensic scientists; (3) disseminating best practices concerning the collection and analyses of forensic evidence; and (4) assessing Federal, State and local privacy protection statutes, regulations and practices relating to DNA samples and DNA analyses. Programs are authorized through 2009 at $15 million per year.

Sec. 206. FBI DNA Programs. Authorizes $42.1 million per year through 2009 for FBI DNA programs and activities, including (1) nuclear DNA analysis; (2) mitochondrial DNA analysis; (3) regional mitochondrial DNA laboratories; (4) the Combined DNA Index System; (5) the Federal Convicted Offender DNA Program; and (6) DNA research and development.

Sec. 207. DNA Identification of Missing Persons. Authorizes $2 million per year through 2009 for grants to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

Sec. 208. Enhanced Criminal Penalties for Unauthorized Disclosure or Use of DNA Information. Modifies the existing criminal provision for unauthorized disclosure of DNA information to include unauthorized ''use'' of such information, and increases the potential fine to $100,000 for each criminal offense.

Sec. 209. Tribal Coalition Grants. Amends the eligibility criteria for discretionary grants under the Violence Against Women Act to include tribal coalitions, and thereby directly support nonprofit, nongovernmental tribal domestic violence and sexual assault coalitions [in Indian country.]

Sec. 210. Expansion of the Paul Coverdell Forensic Sciences Improvement Grant Program. Expands existing grant program to permit funds to be used to eliminate a backlog in the analysis of forensic science evidence, and extends authorization of appropriations through 2009, at $20 million a year. Current authorizations are $128,067,000 for 2004, $56,733,000 for 2005, and $42,067,000 for 2006. [Sec. 210. Forensic Backlog Elimination Grant Program. Authorizes $10 million a year through 2009 for grants to States, units of local government, and tribal governments, to eliminate the backlog in the analysis of any area of forensic science, including firearms examination, latent prints, toxicology, and controlled substances.]

Sec. 211. Report to Congress. Requires the Attorney General to submit a report, not later than 3 years after enactment, relating to implementation of titles I and II of this Act.

TITLE III—INNOCENCE PROTECTION ACT OF 2003

Sec. 301. Short Title. This title may be cited as the ''Innocence Protection Act of 2003.''

Subtitle 1—Exonerating the Innocent Through DNA Testing

Sec. 311. Federal Post-Conviction DNA Testing. Establishes rules and procedures governing applications for DNA testing by inmates in the Federal system. A court shall order DNA testing if the applicant asserts under penalty of perjury that he or she is actually innocent of a qualifying offense, and the proposed DNA testing would produce new material evidence that supports such assertion and raises a reasonable probability that the applicant did not commit the offense. Limitations on access to testing are imposed where the applicant seeks to interfere with the administration of justice rather than to support a valid claim. Penalties are established in the event that testing inculpates the applicant. Where test results are exculpatory, the court shall grant the applicant's motion for a new trial or resentencing if the test results and other evidence establish by a preponderance of the evidence that a new trial would result in an acquittal of the offense at issue.

This section also prohibits the destruction of biological evidence in a federal criminal case while a defendant remains incarcerated, absent a knowing and voluntary waiver by the defendant or prior notification to the defendant that the evidence may be destroyed. Nothing in this section supersedes any statute, regulation, court order, or other provision of law requiring that evidence, including biological evidence, be preserved. Intentional violations of this preservation provision to prevent evidence from being tested or used in court are punishable by a term of imprisonment.

Sec. 312. Kirk Bloodsworth Post-Conviction DNA Testing Grant Program. Authorizes $5 million a year in grants through 2009 to help States to defray the costs of post-conviction DNA testing. This program is named in honor of Kirk Bloodsworth, the first death row inmate to be exonerated by DNA testing.

Sec. 313. Incentive Grants to States to Ensure Consideration of Claims of Actual Innocence. Reserves the total amount of funds appropriated to carry out sections 203, 205, 207, and 312 of this Act for states that have adopted adequate procedures for providing post-conviction DNA testing and preserving biological evidence for this purpose.

Subtitle 2—Improving the Quality of Representation in State Capital Cases

Sec. 321. Capital Representation Improvement Grants. Authorizes a grant program, to be administered by the Attorney General, to improve the quality of legal representation provided to indigent defendants in State capital cases. Grants shall be used to establish, implement, or improve an effective system for providing competent legal representation in capital cases, but may not be used to fund representation in specific cases. An effective system is one in which a public defender program or other entity establishes qualifications for attorneys who may be appointed to represent indigents in capital cases; establishes and maintains a roster of qualified attorneys and assigns attorneys from the roster (or provides the trial judge with a choice of attorneys from the roster); trains and monitors the performance of such attorneys; and ensures funding for the full cost of competent legal representation by the defense team and any outside experts.

Sec. 322. Capital Prosecution Improvement Grants. As part of the same program established in section 321, authorizes grants to improve the representation of the public in State capital cases. Grants shall be used to design and implement training programs for capital prosecutors; develop, implement, and enforce appropriate standards and qualifications for such prosecutors and assess their performance; establish programs under which prosecutors conduct a systematic review of cases in which a defendant is sentenced to death in order to identify cases in which post-conviction DNA testing is appropriate; and assist the families of murder victims.

Sec. 323. Applications. Establishes requirements for States applying for grants under this subtitle, including a long-term strategy and detailed implementation plan that reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations, and establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes in order to enhance the reliability of capital trial verdicts. Funds received under this subtitle shall be allocated equally between the programs established in sections 321 and 322.

Sec. 324. State Reports. Requires States receiving funds under this subtitle to submit an annual report to the Attorney General identifying the activities carried out with the funds and explaining how each activity complies with the terms and conditions of the grant.

Sec. 325. Evaluations by Inspector General and Administrative Remedies. Directs the Inspector General of the Department of Justice to submit periodic reports to the Attorney General evaluating the compliance of each State receiving funds under this subtitle with the terms and conditions of the grant. In conducting such evaluations, the Inspector General shall give priority to States at the highest risk of noncompliance. If, after receiving a report from the Inspector General, the Attorney General finds that a State is not in compliance, the Attorney General shall take a series of steps to bring the State into compliance and report to Congress on the results.

Sec. 326. Authorization of Appropriations. Authorizes $100 million a year for five years to carry out this subtitle.

Subtitle 3—Compensation of the Wrongfully Convicted

Sec. 331. Increased Compensation in Federal Cases. Increases the maximum amount of damages that the U.S. Court of Federal Claims may award against the United States in cases of unjust imprisonment from a flat $5,000 to $50,000 per year in non-capital cases, and $100,000 per year in capital cases.

Sec. 332. Sense of Congress Regarding Compensation in State Death Penalty Cases. This section expresses the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

Mr. BIDEN. Mr. President, I rise along with the distinguished senior Senator from Utah, Senator HATCH and several others of my colleagues, Senators SPECTOR, LEAHY, DEWINE, and FEINSTEIN, to introduce the Advancing Justice Through DNA Act, a bill that harnesses the power of DNA to give prompt justice to victims of sexual assault crimes and to free the wrongly convicted. This bill takes every component of DNA technology and makes it accessible and more useful to Federal, State and local law enforcement, to prosecutors and defense attorneys, to medical personnel and to victims of crime.

Promoting and supporting DNA technology as a crime-fighting tool is not a new endeavor for me. A provision of my 1994 crime bill created the Combined DNA Index System, called ''CODIS'', which is an electronic database of DNA profiles, much like the FBI's fingerprint database. CODIS includes two kinds of DNA information—convicted offender DNA samples and DNA from crime scenes. CODIS uses the two indexes to generate investigative leads in crimes where biological evidence is recovered from the scene. In essence, CODIS facilitates the DNA match. And once that match is made, a crime is solved because of the incredible accuracy and durability of DNA evidence.

Ninety-nine.nine percent—that is how accurate DNA evidence is. One in 30 billion—those are the odds someone else committed a crime if a suspect's DNA matches evidence at the crime scene. Twenty or 30 years—that is how long DNA evidence from a crime scene lasts.

Just 10 years ago DNA analysis of evidence could have cost thousands of dollars and taken months, now testing one sample costs $40 and can take days. Ten years ago forensic scientists needed blood the size of a bottle cap, now DNA testing can be done on a sample the size of a pinhead. The changes in DNA technology are remarkable, and mark a sea change in how we can fight crime, particularly sexual assault crimes.

The FBI reports that since 1998 the national DNA database has helped put away violent criminals in over 9,000 investigations in 50 States. How? By matching the DNA crime evidence to the DNA profiles of offenders. Individual success stories of DNA cold hits in sexual assault cases make these numbers all too real.

Just last year, Alabama authorities charged a man in the rape of an 85-year-old woman almost 10 years ago after he was linked to the case by a DNA sample he was compelled to submit while in prison on unrelated charges.

In Colorado, prosecutors brought to trial a case against a man accused of at least 14 rapes and sexual assaults. Due to the national DNA database, prosecutors were able to trace the defendant to rapes and assaults that occurred in Colorado, California, Arizona, Nevada and Oklahoma between 1999 and 2002.

Or take for example a 1996 case in St. Louis were two young girls were abducted from bus stops and raped at opposite ends of the city. The police were unable to identify a suspect. In 1999, the police decided to re-run the DNA testing to develop new leads. In January 2000, the DNA database matched the case to a 1999 rape case, and police were able to identify the perpetrator.

Last spring, the New York Police Department arrested a man linked to the rape of a woman years ago. In 1997, a woman was horribly beaten, robbed and raped—there were no suspects. Five years later, the perpetrator submitted

a DNA sample as a condition of probation after serving time for burglary. The DNA sample matched the DNA from the 1997 rape. Crime solved, streets safer.

Undoubtedly, DNA matching by comparing evidence gathered at the crime scene with offender samples entered on the national DNA database has proven to be the deciding factor in solving stranger sexual assault cases—it has revolutionized the criminal justice system, and brought closure and justice for victims. A laboratory expert testified that Virginia has a 48 percent hit rate because the State collects samples from all convicted felons and aggressively analyzes crime scene evidence with no backlog. This means that almost 1 out of every 2 violent crimes could be solved by the national DNA database.

In light of the past successes and the future potential of DNA evidence, the reported number of untested rape kits and other crime scene evidence waiting in police warehouses is simply shocking—300,000 to 500,000. It is a national problem, plaguing both urban and rural areas, that deserves national attention and solutions. Last year, a Michigan newspaper reported that its State police forensic unit is expected to have a 10-year backlog of items in need of DNA testing. The Florida crime lab system is facing a backlog of more than 2,400 rape, murder and assault and burglary cases waiting for DNA testing. South Carolina has 10,000 untested samples from convicted offenders. In June 2003, the New Jersey police department reported that over 1,200 criminal cases—most of them sexual assault cases—were waiting for DNA analysis. Behind every single one of those rape kits is a victim who deserves recognition and justice.

One woman in particular has reminded State and Federal lawmakers that we cannot ignore even one rape kit sitting on a shelf gathering dust. That woman is Debbie Smith. In 1989, Mrs. Smith was taken from her home and brutally raped. There were no known suspects, and Mrs. Smith lived in fear of her attacker's return. Six years later, the Virginia crime laboratory discovered a DNA match between the rape scene evidence and a State prisoner's DNA sample. That cold hit gave Mrs. Smith her first moment of real security and closure, and since then she has traveled the country to advocate on behalf of assault victims and champion the use of DNA to fight sexual assault.

Today's bill provides over $755 five years to eliminate the backlog in rape kits and other crime scene evidence, eliminate the backlog of convicted offender samples awaiting DNA testing, and improve State laboratory capacity to conduct DNA testing. I am pleased that the backlog elimination grant program in the Advancing Justice Through DNA Technology Act is entitled, ''The Debbie Smith DNA Backlog Grants.'' It is a fitting tribute. I also want to take a moment to thank my colleagues Senators KOHL and DEWINE who began this effort with the DNA Backlog Elimination Act of 2000, and acknowledge their ongoing commitment.

But the DNA testing is only useful if the crime scene evidence is carefully collected and preserved. Towards that end, the Advancing Justice through DNA Technology Act creates two important grant programs: 1. a $62.5 million DNA training and education grant program for law enforcement, correctional personnel and court officers; and 2. a $50 million grant program to provide training, education and assistance to sexual assault forensic examiner programs, often known as SANE or SART programs.

The Advancing Justice Through DNA Technology Act is a natural extension to the Violence Against Women Act, which requires the Attorney General to evaluate and recommend standards for training and practice for licensed health care professionals performing sexual assault forensic exams. So I knew that any DNA bill aimed at ending sexual assault must include resources for sexual forensic examiners. This bill ensures that sexual forensic nurses, doctors, and response teams are all eligible for assistance. These program should be in each and every emergency room to bridge the gap between the law and the medicine.

Today's bill also makes two small, but important, amendments to the Violence Against Women Act. First, it amends the law to include legal assistance for victims of dating violence, and it amends the eligibility criteria for discretionary programs so that tribal domestic violence and sexual assault coalitions can directly receiving grants funds, including those funds unreleased from past fiscal years.

I started looking at the issue of improved prosecution of sexual assault crimes almost two decades ago when I began drafting the Violence Against Women Act. The DNA Sexual Justice Act of 2003 is the next step, a way to connect the dots between the extraordinary strides in DNA technology and my commitment to ending violence against women. We must ensure that justice delayed is not justice denied.

I am also gratified that this legislation includes the Innocence Protection Act, which I cosponsored last year, and which passed the Judiciary Committee. I have long advocated in this Committee for the changes that it will implement.

The Innocence Protection Act will immeasurably improve the administration of justice in our legal system, particularly where justice is most important, and where we can least afford to make mistakes—imposition of the death penalty.

I advocate for this bill not as an opponent of the death penalty looking to curtail it, but as a supporter of the death penalty who authored the first constitutional federal death penalty law after the Supreme Court declared the death penalty unconstitutional.

But we who support the death penalty also have a duty to ensure that it is fairly administered. The advent of DNA testing has provided us with a wealth of opportunities to make certain that we are prosecuting the right people. Just as we use DNA to help prosecutions, we must make testing available to those who can use it to prove their innocence. This legislation makes post-conviction testing to federal inmates who assert that they did not commit the crime for which they have been imprisoned. It also incentivizes States to take similar measures to ensure that individuals have a proper opportunity to prove their innocence. It also mandates proper preservation of DNA evidence so that the DNA can be tested if appropriate.

As for competent counsel in death penalty cases, nobody can look me in the eye and tell me that our system for representation in capital cases works as it should. This bill will take a big step toward fixing that by providing money for grants to States to improve their systems of representation, on both the prosecution and defense side, in capital cases.

Our goal must be an error-free system of criminal justice. To err is human, but it should never be acceptable. Our job is to do all we can to eliminate errors in the criminal justice system and to see to it that a lack of resources does not delay bringing rapists and murderers to justice. This bill means we are doing our job.

I would be remiss if I did not pause to thank some of the many people who have helped bring about the introduction of this bill. In particular, I wish to thank Senators HATCH and LEAHY, the chairman and ranking member of the Senate Judiciary Committee, for devoting so much of their time and effort to developing this legislation. Similarly, Chairman SENSENBRENNER and Ranking Member CONYERS have worked with us every step of the way to get this bill done. In addition, Senators SPECTER, DEWINE and FEINSTEIN, and Congressmen DELAHUNT and COBLE, among others, have spent countless hours contributing their ideas to this bill. I wish to thank all of these members for their leadership on this matter.

Mr. HATCH. Mr. President, will the Senator from Delaware yield for a question?

Mr. BIDEN. Of course.

Mr. HATCH. Mr. President, it is my understanding that this legislation makes certain of its grants contingent on States providing a process for post-conviction testing available. For those States that already have enacted a statute providing such testing, that statute must ensure a meaningful process for resolving a claim of actual innocence. As I understand it, almost all of the State statutes already in existence, including those of Ohio, Utah, Delaware and Pennsylvania, would pass

muster and would qualify for the grants at issue. Is that the understanding of the Senator from Delaware?

Mr. BIDEN. Yes, I thank the Senator from Utah for his question, and wholeheartedly agree with his understanding of this provision. I believe all of the drafters of this legislation are in agreement that most of the States that already have passed statutes, except for the few that limit post-conviction DNA testing to capital crimes, would pass muster. For example, even if a State's statute differs from the Federal law by imposing a meaningful time limit for filing of applications for testing, or excluding guilty pleas from eligibility, it would qualify. Specifically, Utah, Delaware, Ohio and Pennsylvania, among others, under their statutes, or the reenactment of those statutes where they have expired, would be eligible for such grants. However, States that have not yet enacted a statute would be required to enact a statute, or follow a rule, regulation or practice, that met a higher standard—the statute, rule, regulation or practice would need to be ''comparable'' to the Federal law in order for the State to qualify for the grants. I see the Senator from Pennsylvania on the Floor. I would be happy to yield to the distinguished Senator to hear his thoughts on this matter.

Mr. SPECTER. I thank the Senator for yielding time. I would just say that I completely agree with the understanding of the Senators from Delaware and Utah on this.

Mr. HATCH. Would the Senator yield?

Mr. BIDEN. It would be my pleasure.

Mr. HATCH. I would just like to make clear that the understanding of the Senator from Delaware comports completely with mine.

Mr. SPECTER. Would the Senator yield for another question?

Mr. BIDEN. Of course.

Mr. SPECTER. As the Senator knows, a second requirement for States to qualify for these grants is that—whether by State statute, State or local rule, regulation or practice—they preserve biological evidence in a reasonable way. Do the Senators from Delaware and Utah agree with me that States would qualify so long as they preserve evidence in a way sufficient to permit the testing provided for in their State statutes? For example, if a State law provides a three year time limit on post-conviction DNA testing, a practice of preserving evidence throughout those three years would qualify as ''reasonable'' under this legislation. Thus, for example, Pennsylvania, Delaware, Ohio and Utah would qualify.

Mr. BIDEN. Yes, that has been, and remains, my understanding.

Mr. HATCH. And mine as well.

Mr. LEAHY. Mr. President, three years ago, Senator SMITH, Senator COLLINS and I joined together to introduce the Innocence Protection Act, a modest and practical package of reforms aimed at reducing the risk of error in capital cases. The reforms we proposed were designed to create a fairer system of justice, where the problems that have sent innocent people to death row would not occur, and where victims and their families could be more certain of the accuracy, and finality, of the results.

During the last Congress, the Innocence Protection Act gained enormous momentum, with 32 Senators and 250 Representatives—well over half the House—signed on in support. Hearings were held in each House, and a version of the bill was reported out of the Senate Judiciary Committee by a bipartisan vote of 12 to 7. Now is the time to finish the job and enact this important legislation.

I am pleased, today, to introduce the Innocence Protection Act of 2003. This legislation is a piece of a larger bill called the Advancing Justice through DNA Technology Act of 2003, which provides an infusion of Federal funds to eliminate the current backlog of unanalyzed DNA samples in the Nation's crime labs and to improve the capacity of Federal, State and local crime labs to conduct DNA analyses.

The Innocence Protection Act of 2003 proposes two critical reforms. First, it provides greater access to post-conviction DNA testing in appropriate cases, where it can help expose wrongful convictions, and authorizes $25 million in grants over 5 years to help defray the costs of such testing. Second, the bill addresses what all the statistics and evidence show is the single most frequent cause of wrongful convictions—inadequate defense representation at trial. By far the most important reform we can undertake is to help States establish minimum standards of competency and funding for capital defense.

Other provisions of the Innocence Protection Act establish standards for preserving biological evidence in criminal cases, and substantially increase the maximum amount of compensation that may be awarded in Federal cases of wrongful conviction.

Today's Innocence Protection Act is a modified version of the bill that the Senate Judiciary Committee approved last year. These modifications follow many months of negotiation and deliberation, and were made to build further on the groundswell of support for the bill, both here on Capitol Hill and across America. More than ever, the bill is a collaborative product of which we all can be proud—an exercise of bipartisanship that is in the best tradition of the United States Congress.

I want to thank and commend the Senators and Representatives who worked so hard this summer and fall to come to agreement on a bill that we can all strongly support.

First and foremost, I want to thank my partner in this endeavor, Representative BILL DELAHUNT of Massachusetts, who has worked tirelessly over many years to achieve this goal. I also want to thank our lead Republican sponsors in both houses, Senators GORDON SMITH and SUSAN COLLINS, and Representative RAY LAHOOD of Illinois, all of whom have been steadfast in their commitment to this effort.

The Chairman of the Senate Judiciary Committee, ORRIN HATCH, deserves high praise for his leadership in our recent negotiations, as does the Chairman of the House Judiciary Committee, JIM SENSENBRENNER, and I thank them both. Senator HATCH and I have debated these issues for years. I have always appreciated his thoughtful approach and serious commitment to improving the criminal justice system. Representative SENSENBRENNER played an instrumental role in this process and I do not believe we could have come so far without his dedication. In addition, I want to extend my heartfelt thanks to Senator FEINSTEIN, who has devoted countless hours over the years to reconciling the policy differences that prevented this legislation from moving forward.

I am sorry that Senator DEWINE could not be with us earlier today to announce the introduction of the bill, and appreciate his willingness to allow us to proceed. I have long worked with Senator DEWINE on funding important forensic science tools for law enforcement, and we are currently working on a proposal with regard to how the mentally retarded are treated by the criminal justice system. His leadership on these issues is important and greatly appreciated.

Thanks, too, to the many members on both sides of the aisle, in the Senate and in the House, who have supported this legislation over the years. Working together, we can finally begin to address the many problems facing our capital punishment system.

Capital Representation Improvement Grants: I would like to take a moment now to elaborate on the capital defense representation provisions of the bill, both because they are the more important provisions and because they have been the principal subject of the recent revisions to the bill.

The new version of the Innocence Protection Act establishes a grant program for States to improve the systems by which they appoint and compensate lawyers in death cases. States that authorize capital punishment may apply for these grants or not, as they wish. However, if a State chooses to accept the money, it must open itself up to a set of requirements designed to ensure that its system truly meets basic standards. After all, the point of the bill is not to throw money at the problem of inadequate representation; the point is to fix it.

Earlier versions of the Innocence Protection Act took more of a ''carrot and stick'' approach to the counsel issue. The ''carrot'' was the same as in the current version: millions of dollars in Federal grants to help achieve adequate representation in capital cases. The ''stick''—which is no longer in the bill—has evolved over the years. At one

time, we proposed that States that failed to meet basic competent counsel standards would have their death sentences given less deference and subjected to more rigorous Federal court review. In some versions of the bill, non-complying States would also have forfeited some Federal prison grant funding over time. In the version that the Judiciary Committee approved last year, if a State chose not to participate in the new Federal grant program, the Attorney General would award the money to one or more defender organizations within the State, to be used for capital defense work.

Each of these various mechanisms would have helped ensure cooperation on the part of the States, and I am disappointed that I was unable to prevail upon my colleagues to include any one of them. Still, I believe that the current formulation is a good first step and will make a difference, provided that the grant program is fully funded and that the States which are most in need of reform elect to participate.

As reported by the Senate Judiciary Committee last year, the bill aimed to ensure full funding of the counsel program by providing that, if Congress failed to appropriate sufficient funding for the program, up to 10 percent of the Byrne block grant would be used for this purpose. I regret that this provision has been dropped from the bill; it seemed to me a good way to express our commitment to ensuring that the program is funded. However, given the tremendous support for this legislation in both houses, and on both sides of the aisle, I am confident that Congress will speak with one voice in ensuring that our years of effort are not undermined by a failure to appropriate the money needed to make this legislation effective.

Getting States to participate in the program may be more difficult. Indeed, the States that are in most need of reform may be the least inclined to participate, given that they will have the most to do to bring their indigent defense systems into compliance with the terms and conditions of the grant. While I am hopeful that States will want to improve their systems, and will welcome the infusion of Federal funds for this purpose, Congress will need to monitor this program carefully to ensure that it is meeting its stated objective of improving the quality of legal representation provided to indigent defendants in State capital cases and, if it is not, to take additional remedial action.

Kirk Bloodsworth Post-Conviction DNA Testing Grant Program: We have also established a $25 million grant program to help defray the costs of post-conviction DNA testing. This program is named in honor of Kirk Bloodsworth, the first death row inmate to be exonerated by DNA testing.

I first met Kirk in February 2000, when he came to me as a man who had been exonerated after almost nine years of wrongful imprisonment. I am proud to say that we have become close friends and partners in the fight to reform capital punishment in America. I am also delighted that Kirk can finally feel truly free. Just a few weeks ago, the State of Maryland charged another man with the crime for which Kirk was convicted and sentenced to death, after prosecutors finally ran the DNA evidence in the case through the DNA database. The prosecutor who sent Kirk to death row, and who had previously refused to acknowledge his innocence, went to his home to apologize to him.

Kirk Bloodsworth's battle to prove his own innocence has been won. But his nightmare of wrongful conviction has been repeated again and again across the country. Since the reinstatement of capital punishment in the 1970s, more than 110 individuals who were convicted and sentenced to death have been released from death row with evidence of their innocence, according to the Death Penalty Information Center. In addition, since the introduction of forensic DNA typing into the legal system in the early 1990s, many more individuals who were sentenced to long terms of imprisonment have been exonerated by post-conviction DNA testing. The Kirk Bloodsworth Post-Conviction DNA Testing Grant Program will help assist others who have experienced wrongful conviction.

Debbie Smith DNA Backlog Grant Program: As I noted earlier, this version of the Innocence Protection Act is being introduced as part of a larger package of criminal justice reforms, titled the Advancing Justice Through DNA Technology Act of 2003, which will substantially increase Federal resources available to State and local governments to combat crimes with DNA technology. Among other things, this legislation creates the Debbie Smith DNA Backlog Grant Program, which authorizes $755 million over the next five years to reduce the current backlog of unanalyzed DNA samples in the Nation's crime labs.

I have worked with the proponents of this program to revise the allocation formula, so that each State is guaranteed a minimum allocation of .50 percent of the total amount appropriated in a fiscal year. This will make the program fair for all States, including smaller States like Vermont.

As DNA testing has moved to the front lines of the war on crime, forensic laboratories nationwide have experienced a significant increase in their caseloads, both in number and complexity. Funding has simply not kept pace with this increasing demand, and forensic labs nationwide are now seriously bottlenecked.

Backlogs have seriously impeded the use of DNA testing in solving cases without suspects—and reexamining cases in which there are strong claims of innocence—as labs are required to give priority status to those cases in which a suspect is known. Solely for lack of funding, critical evidence remains untested while rapists and killers remain at large. The Debbie Smith DNA Backlog Grant Program will give States the help they desperately need to carry out DNA analyses of backlogged evidence, and I strongly support its passage and full funding.

Expansion of the Paul Coverdell Forensic Sciences Improvement Grant Program: The bill also expands and extends for another three years an existing grant program, named after our late colleague, Senator Paul Coverdell. Congress passed the Paul Coverdell National Forensic Sciences Improvement Act three years ago, with the goal of improving the quality and timeliness of State and local forensic science services. I was proud to cosponsor that legislation, and have worked since its passage to secure full funding for the grant program it establishes. Unfortunately, despite my efforts and those of other Members, and notwithstanding the urgent pleas of lab directors nationwide, the President has never requested funding for Paul Coverdell grants, and Congress has never appropriated sufficient funds to make the program effective. The legislation we introduce today renews our commitment to this important initiative.

Our bill also expands the purposes for which Paul Coverdell grants may be used, to include the elimination of a non-DNA forensic evidence backlog. The need for this measure was highlighted earlier this year at a subcommittee hearing on funding forensic sciences. Witness after witness testified that DNA evidence is not the only evidence that is going untested for lack of resources. Crime labs are also facing substantial backlogs with respect to other types of forensic science evidence, including firearms, latent prints, controlled substances, toxicology, trace evidence, questionable documents, and forensic pathology. We need to ensure that our labs are equipped to address the full range of issues that they are called upon to handle.

We have had a constructive debate. We have shown that the death penalty system is broken, and we have built a bipartisan coalition supporting reforms. It is now time to act. Our bill reflects a principled consensus on the most basic and essential reforms; it raises no serious constitutional or law enforcement concerns; it will improve criminal justice in America considerably; and it may well save innocent lives. I am therefore proud to sponsor it, and I urge its speedy passage into law.