(Mr. SCHUMER), the Senator from Indiana (Mr. BAYH), and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 85, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 91

At the request of Mr. GRASSLEY, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 91, a bill to amend title 9, United States Code, to provide for greater fairness in the arbitration process relating to livestock and poultry contracts.

S. 105

At the request of Ms. STABENOW, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 105, a bill to repeal certain provisions of the Homeland Security Act (Public Law 107–296) relating to liability with respect to certain vaccines.

S. 125

At the request of Mr. ROBERTS, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 125, a bill to provide emergency disaster assistance to agricultural producers.

S. 140

At the request of Mrs. FEINSTEIN, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. SPECTER, Ms. CANTWELL, Mrs. CLINTON, Mr. SCHUMER, Mr. CARPER, Mrs. FEINSTEIN, Mr. DURBIN, Mr. LEAHY, Mr. JEFFORDS, Mr. CRAIG, Mr. WARNER, Mrs. MURRAY, Mr. EDWARDS, Ms. COLLINS, Mr. CORZINE, Mr. ALLEN, Ms. LANDRIEU, Mr. KOHL, and Ms. STABENOW):

S. 152. A bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise along with the distinguished Senior Senator from Pennsylvania, Senator SPECTER, to introduce the DNA Sexual Assault Justice Act of 2003, a bill that guarantees prompt justice to victims of sexual assault crimes through DNA technology. This bill is not new to my colleagues. Last session, I introduced the DNA Sexual Assault Justice Act with Senators SPECTER, CANTWELL, CLINTON, and SCHUMER. The bill was voted favorably out of the Judiciary Committee with the key support of my good friend across the aisle, Senator SPECTER. And in September, with twenty co-sponsors, Republicans and Democrats, the DNA Sexual Assault Justice Act unanimously passed the Senate. Regrettably, our House counterparts were not able to act so quickly or decisively on a DNA bill, so I am back to re-introduce the bill and to urge quick passage of the DNA Sexual Assault Justice Act of 2003. I am pleased that, once again, this bill has strong bipartisan support and I look forward to working with my good friend from Utah, the distinguished Senior Senator, Senator HATCH, in acting promptly in marking up this bill when he assumes chairmanship of the Judiciary Committee.

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.

99.9 percent—that is how accurate DNA evidence is. 1 in 30 billion, those are the odds someone else committed a crime if a suspect's DNA matches evidence at the crime scene. 20 or 30 years, that is how long DNA evidence from a crime scene lasts.

Just ten 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 6,257 investigations in 40 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 month, Alabama authorities charged a man in the rape of an 85-year-old woman almost ten 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 Springs, CO, a trial will soon begin of a man accused of at least fourteen 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.

In Florida, Kellie Green was brutally attacked and raped in the laundry room of her apartment complex. Because of lack of funds, her rape kit sat on the shelf for three years until a persistent detective had it analyzed. The evidence matched the profile of a man already incarcerated for beating and raping a woman 6 weeks before Kellie.

Or take, for example, a 1996 case in St. Louis where 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.

In light of the past successes and the future potential of DNA evidence, the reports about the backlog of untested rape kits and other crime scene evidence waiting in police warehouses are simply shocking. It is a national problem, plaguing both urban and rural areas, that deserves national attention and solutions. One woman, in particular, has reminded State and Federal lawmakers that we cannot ignore even one rape kit sitting on a shelf gathering dust, Debbie Smith. In 1989, Mrs. Smith was brutally taken from her home and 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. Mrs. Smith had 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. I am pleased that the DNA Sexual Assault Justice Act of 2003 bears a provision entitled, ''The Debbie Smith DNA Backlog Grants.''

Today I am introducing legislation, ''The DNA Sexual Assault Justice Act of 2003'', to strengthen the existing Federal DNA regime as an effective crimefighting tool. My bill addresses five pressing issues.

First, exactly how bad is the backlog of untested rape kits nationwide? A

1999 government report found over 180,000 rape kits were sitting, untested, on the storage shelves of police department and crime laboratories all across the country.

While recent press reports estimate that the number today is approaching 500,000 untested rape kits, I am told that there are no current, accurate numbers of the backlog. Behind every single one of those rape kits is a victim who deserves recognition and justice. Accordingly, my legislation would require the Attorney General to survey law enforcement agencies nationwide to assess the extent of the backlog of rape kits waiting to undergo DNA testing. To combat the problem of rape kit backlogs, it is imperative to know the real numbers, and how best to utilize Federal resources.

Second, how can existing Federal law be strengthened to make sure that State crime labs have the funds for the critical DNA analysis needed to solve sex assault cases? To fight crime most effectively, we must both test rape kits and enter convicted offender DNA samples into the DNA database. There has been explosive growth in the use of forensic sciences by law enforcement. A government survey found that in 2000 alone, crime labs received 31,000 cases—a 47 percent increase from almost 21,000 cases in 1999. In addition, the labs received 177,000 convicted offender DNA samples, an almost 77 percent increase from 100,242 samples in 1999.

The backlog in DNA testing is found all across the country. Last month 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. Similar news reports are elsewhere. The Florida crime lab system is facing a backlog of more than 2,400 rape, murder and assault and burglary cases with DNA evidence waiting for testing. In North Carolina, up to 20,000 rape kit tests sit on evidence shelves because the lab does not have the resources to conduct timely DNA testing.

Many crime laboratories report personnel shortages in the face of this overwhelming work. According to a government survey, on average, there are 6 employees in a State crime lab, a lab that must not only conduct DNA testing for hundreds of cases, but also run forensic tests on blood, footprints or ballistic evidence.

The bill I'm introducing would: 1. Increase current funding levels to both test rape kits and to process and upload offender samples; and 2. allow local governments to apply directly to the Justice Department for these grants. I thank my colleagues Senators KOHL and DEWINE who began this effort with the DNA Backlog Elimination Act of 2000 and acknowledge their ongoing interest in this area.

Third, what assistance does the FBI need to keep up with the crushing number of DNA samples which need to be tested or stored in the national database? I am told that the current national DNA database, ''CODIS'', is nearing capacity of convicted offender DNA samples. My bill would provide funds to the FBI to 1. Upgrade the national DNA computer database to handle the huge projections of samples; and 2. process and upload Federal convicted offender DNA samples into the database.

Efforts to include more Federal and State convicted offenders in our database just makes plain sense to fight crime. We know that sexual assault is a crime with one of the highest rates of recidivism, and that many sexual assault crimes are committed by those with past convictions for other kinds of crime. Their DNA samples from prior convictions help law enforcement efforts enormously. We cannot wait; the 2001 FBI crime records show that one forcible rape occurs every 5.8 minutes, and the most recent reports from the first six months of 2002 indicate a 1.8 percent increase in the number of rapes as compared to 2001 statistics.

Fourth, what additional tools are needed to help treat victims of sexual assault? One group that understands the importance of gathering credible DNA evidence are forensic sexual assault examiners, who are sensitive to the trauma of this horrible crime and make sure that patients are not revictimized in the aftermath. These programs should be in each and every emergency room and play an integral role in police departments to bridge the gap between the law and the medicine.

I first recognized the importance of sexual assault nurse examiners in solving rape cases when I authored the Violence Against Women Act. A key provision in the Violence Against Women Act 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, and not just one type. My bill ensures that sexual forensic nurses, doctors, and response teams are all eligible for assistance.

Tapping the power of DNA requires well-trained law enforcement who know how to collect and preserve DNA evidence from the crime scene. Training should be a matter of course for all law enforcement. No rape kit evidence will lead to the perpetrator if the DNA evidence is collected improperly.

The DNA Sexual Assault Justice Act would create a new grant program to carry out sexual assault examiner programs and training. And it would train law enforcement personnel and prosecutors in the handling of sexual assault cases, including drug-facilitated assaults, and the collection and use of DNA samples for use as forensic evidence at trial.

Fifth, what can be done to ensure that sexual assault offenders who cannot be identified by their victim are nevertheless brought to justice?

Profound injustice is done to rape victims when delayed DNA testing leads to a ''cold hit'' after the statute of limitations has expired. For example, Jeri Elster was brutally raped in her California home, and for years the police were unable to solve the crime. Seven years later, DNA from the rape matched a man in jail for an unrelated crime. Yet the rapist was never charged, convicted or sentenced because California's statute of limitations had expired the previous year.

The DNA Sexual Assault Justice Act of 2003 would change current law to authorize Federal ''John Doe/DNA indictments'' that will permit Federal prosecutors to issue an indictment identifying an unknown defendant by his DNA profile within the five year statute of limitations. Once outstanding, the DNA indictment would permit prosecution at anytime once there was a DNA ''cold hit'' through the national DNA database system.

John Doe/DNA indictments strike the right balance between encouraging swift and efficient investigations, recognizing the durability and credibility of DNA evidence and preventing an injustice if a cold hit happens years after the crime. Criminal law must catch up with DNA technology without the wholesale eradication of prevailing statutes of limitations.

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

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

S. 152

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 ''DNA Sexual Assault Justice Act of 2003''.

SEC. 2. ASSESSMENT OF BACKLOG IN DNA ANALYSIS OF SAMPLES.

(a) ASSESSMENT.—The Attorney General, acting through the Director of the National Institute of Justice, shall survey Federal, State, local, and tribal law enforcement jurisdictions to assess the amount of DNA evidence contained in rape kits and in other evidence from sexual assault crimes that has not been subjected to testing and analysis.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the assessment carried out under subsection (a).

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the results of the assessment carried out under subsection (a);

(B) the number of rape kit samples and other evidence from sexual assault crimes

that have not been subjected to DNA testing and analysis; and

(C) a plan for carrying out additional assessments and reports on the backlog in crime scene DNA testing and analysis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Justice to carry out this section $500,000 for fiscal year 2004.

SEC. 3. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by striking the heading and inserting ''**AUTHORIZATION OF DEBBIE SMITH DNA BACKLOG GRANTS.**''; and

(2) in subsection (a)—

(A) in paragraph (2), by inserting ''including samples from rape kits and samples from other sexual assault evidence, including samples taken in cases with no identified suspect'' after ''crime scene''; and

(B) by adding at the end the following:

''(4) To ensure that DNA testing and analysis of samples from rape kits and nonsuspect cases are carried out in a timely manner.''.

SEC. 4. INCREASED GRANTS FOR ANALYSIS OF DNA SAMPLES FROM CONVICTED OFFENDERS AND CRIME SCENES.

Section 2(j) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(j)) is amended—

(1) in paragraph (1)—

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

(B) by striking subparagraph (C) and inserting the following:

''(C) $15,000,000 for fiscal year 2004;

''(D) $15,000,000 for fiscal year 2005;

''(E) $15,000,000 for fiscal year 2006;

''(F) $15,000,000 for fiscal year 2007; and

''(G) $15,000,000 for fiscal year 2008.

Amounts made available to carry out the purposes specified in subsection (a)(1) shall remain available until expended.''; and

(2) in paragraph (2), by striking subparagraphs (C) and (D) and inserting the following:

''(C) $75,000,000 for fiscal year 2004;

''(D) $75,000,000 for fiscal year 2005;

''(E) $75,000,000 for fiscal year 2006;

''(F) $75,000,000 for fiscal year 2007; and

''(G) $25,000,000 for fiscal year 2008.

Amounts made available to carry out the purposes specified in paragraphs (2) and (3) of subsection (a) shall remain available until expended.''.

SEC. 5. AUTHORITY OF LOCAL GOVERNMENTS TO APPLY FOR AND RECEIVE DNA BACKLOG ELIMINATION GRANTS.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in the matter preceeding paragraph (1)—

(i) by inserting '', units of local government, or Indian tribes'' after ''eligible States''; and

(ii) by inserting '', unit of local government, or Indian tribe'' after ''State''; and

(B) in paragraph (3), by striking ''or by units of local government'' and inserting '', units of local government, or Indian tribes'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''or unit of local government, or the head of the Indian tribe'' after ''State'' each place that term appears;

(B) in paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(C) in paragraph (3), by inserting '', unit of local government, or Indian tribe'' after ''State'' the first time that term appears;

(D) in paragraph (4), by inserting '', unit of local government, or Indian tribe'' after ''State''; and

(E) in paragraph (5), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(3) in subsection (c), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''or a unit of local government'' and inserting '', a unit of local government, or an Indian tribe''; and

(ii) in subparagraph (B), by striking ''or a unit of local government'' and inserting '', a unit of local government, or an Indian tribe''; and

(B) in paragraph (2)(A), by inserting '', units of local government, and Indian tribes,'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' each place that term appears; and

(B) in paragraph (2), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(6) in subsection (f), in the matter preceeding paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State''; and

(B) in paragraph (2), by inserting '', units of local government, or Indian tribes'' after ''States''; and

(8) in subsection (h), by inserting '', unit of local government, or Indian tribe'' after ''State'' each place that term appears.

SEC. 6. IMPROVING ELIGIBILITY CRITERIA FOR BACKLOG GRANTS.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' after the semicolon;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(6) if the applicant is a unit of local government, certify that the applicant participates in a State laboratory system;

''(7) provide assurances that, not later than 3 years after the date on which the application is submitted, the State, unit of local government, or Indian tribe will implement a plan for forwarding, not later than 180 days after a DNA evidence sample is obtained, all samples collected in cases of sexual assault to a laboratory that meets the quality assurance standards for testing under subsection (d); and

''(8) upon issuance of the regulations specified in section 10(d), certify that the State, unit of local government, or Indian tribe is in compliance with those regulations.''; and

(2) by adding at the end the following:

''(k) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a State or unit of local government that has a significant rape kit or nonsuspect case backlog per capita as compared with other applicants.''.

SEC. 7. QUALITY ASSURANCE STANDARDS FOR COLLECTION AND HANDLING OF DNA EVIDENCE.

(a) NATIONAL PROTOCOL.—

(1) IN GENERAL.—The Attorney General shall review national, State, local, and tribal government protocols, that exist on or before the date of enactment of this Act, on the collection and processing of DNA evidence at crime scenes.

(2) RECOMMENDED PROTOCOL.—Based upon the review described in paragraph (1), the Attorney General shall develop a recommended national protocol for the collection of DNA evidence at crime scenes, including crimes of rape and other sexual assault.

(b) STANDARDS, PRACTICE, AND TRAINING FOR SEXUAL ASSAULT FORENSIC EXAMINATIONS.—Section 1405(a) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note) is amended—

(1) in paragraph (2), by inserting ''and emergency response personnel'' after ''health care students''; and

(2) in paragraph (3), by inserting ''and DNA evidence collection'' after ''sexual assault forensic examinations''.

SEC. 8. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) AUTHORIZATION OF GRANTS.—The Attorney General shall make grants to eligible entities to—

(1) establish and maintain sexual assault examiner programs;

(2) carry out sexual assault examiner training and certification; and

(3) acquire or improve forensic equipment.

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' means—

(1) a State;

(2) a unit of local government;

(3) a college, university, or other institute of higher learning;

(4) an Indian tribe;

(5) sexual assault examination programs, including sexual assault nurse examiner (SANE) programs, sexual assault forensic examiner (SAFE) programs, and sexual assault response team (SART) programs; and

(6) a State sexual assault coalition.

(c) APPLICATION.—To receive a grant under this section—

(1) an eligible entity shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require; and

(2) an existing or proposed sexual assault examination program shall also—

(A) certify that the program complies with the standards and recommended protocol developed by the Attorney General pursuant to section 1405 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note); and

(B) certify that the applicant is aware of, and utilizing, uniform protocols and standards issued by the Department of Justice on the collection and processing of DNA evidence at crime scenes.

(d) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to proposed or existing sexual assault examination programs that are serving, or will serve, populations currently underserved by existing sexual assault examination programs.

(e) RESTRICTIONS ON USE OF FUNDS.—

(1) SUPPLEMENTAL FUNDS.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources for the purposes of this section.

(2) ADMINISTRATIVE COSTS.—An eligible entity may not use more than 5 percent of the funds it receives under this section for administrative expenses.

(3) NONEXCLUSIVITY.—Nothing in this section shall be construed to limit or restrict the ability of proposed or existing sexual assault examination programs to apply for and obtain Federal funding from any other agency or department or any other Federal grant program.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, to remain available until expended, $30,000,000 for each of

fiscal years 2004 through 2008 to carry out this section.

SEC. 9. DNA EVIDENCE TRAINING GRANTS.

(a) AUTHORIZATION OF GRANTS.—The Attorney General shall make grants to eligible entities to—

(1) train law enforcement personnel and all other first responders at crime scenes, including investigators, in the handling of sexual assault cases and the collection and use of DNA samples for use as forensic evidence;

(2) train State and local prosecutors on the use of DNA samples for use as forensic evidence; and

(3) train law enforcement personnel to recognize, detect, report, and respond to drug-facilitated sexual assaults.

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' means—

(1) a State;

(2) a unit of local government;

(3) a college, university, or other institute of higher learning; and

(4) an Indian tribe.

(c) APPLICATION.—To receive a grant under this section, the chief executive officer of a State, unit of local government, or university, or the head of a tribal government that desires a grant under this section shall submit to the Attorney General—

(1) an application in such form and containing such information as the Attorney General may require;

(2) certification that the applicant is aware of, and utilizing, uniform protocols and standards issued by the Department of Justice on the collection and processing of DNA evidence at crime scenes;

(3) certification that the applicant is aware of, and utilizing, the national sexual assault forensic examination training protocols developed under section 1405(a) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note); and

(4) if the applicant is a unit of local government, certification that the applicant participates in a State laboratory system.

(d) RESTRICTIONS ON USE OF FUNDS.—

(1) SUPPLEMENTAL FUNDS.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources for the purposes of this section.

(2) ADMINISTRATIVE COSTS.—An eligible entity may not use more than 5 percent of the funds it receives under this section for administrative expenses.

(3) NONEXCLUSIVITY.—Nothing in this section shall be construed to limit or restrict the ability of an eligible entity to apply for and obtain Federal funding from any other agency or department or any other Federal grant program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice $10,000,000 for each of fiscal years 2004 through 2008 to carry out this section.

SEC. 10. AUTHORIZING JOHN DOE DNA INDICTMENTS.

(a) LIMITATIONS.—Section 3282 of title 18, United States Code, is amended—

(1) by striking ''Except'' and inserting the following:

''(a) LIMITATION.—Except''; and

(2) by adding at the end the following:

''(b) DNA PROFILE INDICTMENT.—

''(1) IN GENERAL.—In any indictment found for an offense under chapter 109A, if the identity of the accused is unknown, it shall be sufficient to describe the accused as an individual whose name is unknown, but who has a particular DNA profile.

''(2) EXCEPTION.—Any indictment described in paragraph (1), which is found within 5 years after the offense under chapter 109A shall have been committed, shall not be subject to—

''(A) the limitations period described in subsection (a); and

''(B) the provisions of chapter 208 until the individual is arrested or served with a summons in connection with the charges contained in the indictment.

''(3) DEFINITION.—For purposes of this subsection, the term 'DNA profile' means a set of DNA identification characteristics.''.

(b) RULES OF CRIMINAL PROCEDURE.—Rule 7 of the Federal Rules of Criminal Procedure is amended in subdivision (c)(1) by adding at the end the following: ''For purposes of an indictment referred to in section 3282 of title 18, United States Code, if the identity of the defendant is unknown, it shall be sufficient to describe the defendant, in the indictment, as an individual whose name is unknown, but who has a particular DNA profile, as defined in that section 3282.''.

SEC. 11. INCREASED GRANTS FOR COMBINED DNA INDEX (CODIS) SYSTEM.

Section 210306 of the DNA Identification Act of 1994 (42 U.S.C. 14134) is amended—

(1) by striking ''There'' and inserting the following:

''(a) IN GENERAL.—There''; and

(2) by adding at the end the following:

''(b) INCREASED GRANTS FOR CODIS.—There is authorized to be appropriated to the Federal Bureau of Investigation to carry out upgrades to the Combined DNA Index System (CODIS) $9,700,000 for fiscal year 2003.''.

SEC. 12. INCREASED GRANTS FOR FEDERAL CONVICTED OFFENDER PROGRAM (FCOP).

Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a) is amended by adding at the end the following:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Federal Bureau of Investigation to carry out this section $500,000 for fiscal year 2003.''.

SEC. 13. PRIVACY REQUIREMENTS FOR HANDLING DNA EVIDENCE AND DNA ANALYSES.

(a) PRIVACY PROTECTION STANDARD.—Section 10(a) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(a)) is amended by inserting before the period at the end the following: ''or in section 3282(b) of title 18, United States Code''.

(b) LIMITATION ON ACCESS TO DNA INFORMATION.—Section 10 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e) is amended by adding at the end the following:

''(d) LIMITATION ON ACCESS TO DNA INFORMATION.—

''(1) IN GENERAL.—The Attorney General shall establish, by regulation, procedures to limit access to, or use of, stored DNA samples or DNA analyses.

''(2) REGULATIONS.—The regulations established under paragraph (1) shall establish conditions for using DNA information to—

''(A) limit the use and dissemination of such information, as provided under subparagraphs (A), (B), and (C) of section 210304(b)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14132(b)(3));

''(B) limit the redissemination of such information;

''(C) ensure the accuracy, security, and confidentiality of such information;

''(D) protect any privacy rights of individuals who are the subject of such information; and

''(E) provide for the timely removal and destruction of obsolete or inaccurate information, or information required to be expunged.''.

(c) CRIMINAL PENALTY.—Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e) is amended—

(1) in paragraph (1), by striking ''discloses a sample or result'' and inserting ''discloses or uses a DNA sample or DNA analysis''; and

(2) in paragraph (2), by inserting ''per offense'' after ''$100,000''.

Ms. CANTWELL. Mr. President, I am pleased to cosponsor this important legislation to address the shameful backlog of unanalyzed DNA evidence in rape kits. Senator BIDEN, Senator SPECTOR and I worked closely on this issue last year and this bill is an excellent compromise that combines aspects of bills introduced by myself and by Senator BIDEN. This bill provides critical resources to State and Federal Governments to ensure that all the DNA evidence sitting in storage rooms across the country can be tested and perpetrators found and convicted. As more and more states have moved to require DNA samples from all convicted felons, the Federal resources that this bill provides to aid in the building of convicted offender records has also become more critical. The bill unanimously passed both the Judiciary Committee and the full Senate last year. It once again has strong bipartisan support, and I anticipate that we will work quickly to pass the bill in this new Congress, so that the bill can also pass the House of Representatives and become law. This bill reauthorizes a 2000 bill and time is of the essence as those authorizations expire soon. The power of DNA to find and convict rapists in cases where there have never even been an identified suspect cannot be overstated. We must act now to help law enforcement and prosecutors across the country be able to make full use of the most valuable tool at their disposal.

One of the things that I am most pleased about is that the grant program in this bill to fund DNA testing of existing rape kits throughout the country will bear the name of Debbie Smith. In her testimony before the Crime Subcommittee of the Judiciary Committee last June, she proved herself an extraordinary spokesperson on the power of DNA evidence to bring not just justice but peace to victims of sexual assault.

The heart of this bill is about getting DNA evidence from rape cases that is currently sitting in police evidence rooms tested and checked against the DNA profiles of convicted felons. We all know that DNA is a tool that works and as more states begin building their felon data bases, more and more cases of rape where police have no suspect are being solved.

We owe every woman in this country who has had the courage to come forward and undergo an invasive physical exam and evidence gathering after the trauma of a sexual assault, at a minimum, the absolute guarantee that the collected evidence is being checked against known felons. That is what this bill does.

In my state of Washington alone, in the past five years at least 12,950 women have submitted to humiliating and traumatic exams for the collection

of evidence that has not been analyzed to help solve their rape. When applied on a national scale, these findings would indicate a national backlog of 615,000 cases of untested evidence. Washington State University is currently in the process of conducting a national assessment of the backlog of rape kits and I look forward to learning those results but we simply must provide the resources to get this evidence analyzed now.

We need to pass this bill and fund this bill to help police solve more rapes and give women receive the peace of mind of knowing that everything that can be done to catch their attacker is being done.

Mr. KOHL. Mr. President, I rise today in support of S. 152, the DNA Sexual Justice Act of 2003. Building on the success of the Kohl-DeWine DNA Analysis Backlog Elimination Act enacted during the 106th Congress, this legislation will provide law enforcement and prosecutors with critical physical evidence that will help put more criminals behind bars. Currently, DNA evidence is languishing untested at laboratories nationwide, simply for lack of funding. The DNA Sexual Justice Act will assess the extent of the backlog and provide funding for its elimination. Further, this legislation will ensure that DNA evidence from cases involving sexual assault is handled properly by providing training for emergency personnel, medical examiners, law enforcement, forensic analysts and prosecutors.

Currently, all 50 States and the Federal Government require DNA samples to be obtained from certain convicted offenders, and these samples increasingly can be shared through a national DNA database established by Federal law. This national database, part of the Combined Database Index System, CODIS, enables law enforcement officials to link DNA evidence found at a crime scene with any suspect whose DNA is already on file. By identifying repeat offenders, this DNA sharing can and does make a difference.

Before passage of the Kohl-DeWine Backlog Elimination Act in 2000, law enforcement was in large part unable to take advantage of DNA analysis as a crime-fighting technology. This was primarily due to the fact that DNA sample collection was not required of all Federal offenders, forensic labs did not have enough resources or equipment to analyze collected samples, and State databases were not interoperable with Federal databases. This bill will further address these issues by directing the Attorney General to survey forensic laboratories across the country to determine the scope of the backlog and authorizes the funding necessary to eliminate the backlog over the next four years.

However this legislation goes even further, focusing new, targeted grant programs toward DNA evidence collected from crimes of sexual assault or violence. By authorizing funding for the training of emergency personnel and medical examiners, this legislation ensures that DNA evidence will be properly collected. With funding for forensic equipment and the training of forensic examiners, it ensures that DNA evidence will be accurately analyzed. And by providing funding for the training of prosecutors, this legislation ensures that the evidence will be used to its greatest possible effect in the courtroom.

This measure will ensure that women who have been victims of sexual assault or violence will have the most reliable tools to bring their assailants to justice. Most importantly, this legislation will help police use modern technology to solve crimes and prevent repeat offenders from committing new ones.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. GRASSLEY, Mr. SESSIONS, and Mr. CRAIG):

S. 153. A bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to reintroduce the Identity Theft Penalty Enhancement Act along with Senator KYL, Senator GRASSLEY, Senator SESSIONS, and Senator CRAIG.

I first introduced this bipartisan legislation last June with the full support of the Justice Department. The bill will make it easier for prosecutors to target those identity thieves who, as is so often the case, steal an identity for the purpose of committing one or more other crimes.

I am hopeful that we can build on the momentum generated by this legislation in the 107th Congress. The Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information conducted a hearing on the bill on July 9, 2002.

The Judiciary Committee subsequently passed the legislation out of Committee on November 14, shortly before the Senate went out of session.

As we enter the 108th congress, there remains a compelling need to stiffen the penalties for identity thieves.

A little more than a month ago, the largest single identity theft case in U.S. history was uncovered. Federal authorities arrested Philip Cummings who, along with two accomplices, allegedly sold the credit reports and other personal information of 30,000 victims for as little as $30 each. Investigators have confirmed $2.7 million in losses so far, and the totals are expected to be much greater. This case is an example of the tremendous damage that an identity thief can cause.

Moreover, many serious crimes, even including terrorism, are aided by stolen identifies.

Lofti Raissi, a 27-year old Algerian pilot from London who is believed to have trained four of the 9/11 hijackers, was identified in British court papers as having used the Social Security number of Dorothy Hansen, a retired factory worker from Jersey City, NJ, who died in 1991.

Last year, the Department of Justice filed charges against an Algerian national who stole the identifies of 21 members of a health club in Cambridge, MA. He then transferred those stolen identities to one of the individuals convicted in the failed plot to bomb Los Angeles International Airport in 1999.

Joseph Kalady of Chicago was charged with trying to fake his own death using the identity of another. Kalady, who was awaiting trial on charges of counterfeiting birth certificates, Social Security cards and driver's licenses, allegedly suffocated a homeless man and sought to have him cremated under Mr. Kalady's identity in order to fake his own death and avoid prosecution.

The stories go on and on, and it is those stories that make the legislation we introduce today so vital. Identity theft has become the major escalating crime of the new millennium, and Congress needs to give law enforcement the tools to prosecute these crimes.

Let me just outline what this bill would do.

First, the bill would create a separate crime of ''aggravated identity theft'' for any person who uses the identity of another person to commit certain serious, Federal crimes.

Specifically, the legislation would provide for an additional two-year penalty for any individual convicted of committing one of the following serious Federal crimes while using the identity of another person: Stealing another's identity in order to illegally obtain citizenship in the United States; stealing another's identity to obtain a passport or visa; using another's identity to remain in the United States illegally after a visa has expired or an individual has been ordered to depart this country; stealing an individual's identity to commit bank, wire or mail fraud, or to steal from employee pension funds; and other serious Federal crimes, all of them felonies.

Furthermore, the legislation would provide for an additional five-year penalty for any individual who uses the stolen identity of another person to commit any one of the enumerated Federal terrorism crimes found in 18 U.S.C. 2332b(g)(5)(B). These crimes include: The destruction of aircraft; the assassination or kidnapping of high level Federal officials; bombings; hostage taking; providing material support to terrorism organizations; and other terrorist crimes.

Under the legislation, aggravated identity theft is a separate crime, not just a sentencing enhancement. And the two-year and five-year penalties for aggravated identity theft must be served consecutively to the sentence for the underlying crime.

This bill also strengthens the ability of law enforcement to go after identity thieves and to provide their case.

First, the bill adds the word ''possesses'' to current law, in order to allow law enforcement to target individuals who possess the identity documents of another person with the intent to commit a crime. Current Federal law prohibits the transfer or use of false identity documents, but does not specifically ban the possession of those documents with the intent to commit a crime.

So if law enforcement discovers a stash of identity documents with the clear intent to use those documents to commit other crimes, the person who possesses those documents will now be subject to prosecution.

Second, the legislation amends current law to make it clear that if a person uses a false identity ''in connection with'' another Federal crime, and the intent of the underlying Federal crime is proven, then the intent to use the false identity to commitment that crime need not be separately proved.

This simply makes the job of the prosecutor easier when an individual is convicted of a Federal crime and uses a false identity in collection with that crime.

This legislation also increases the maximum penalty for identity theft under current law from three years to five years.

And finally, the legislation we introduce today will clarify that the current 25-year maximum sentence for identity theft in facilitation of international terrorism also applies to identity theft in facilitation of domestic terrorism as well.

Identity theft is a crime on the rise in America, and it is a crime with severe consequences not only for the individual victims of the identity theft, but for every consumer and every financial institution as well.

Identity theft comes in many forms and can be perpetrated in many ways, and that is why I have worked for many years now with Senator KYL and others to put some safeguards into the law that might better prevent the fraud from occurring in the first place, and to crack down on identity thieves.

And other legislation I have introduced would put into place certain procedural safeguards to protect credit card numbers, personal information, and other key data from potential identity thieves.

The legislation we introduce today is meant to beef up the law in terms of what happens after an identity theft takes place. In seriously enhancing the penalties for identity thieves who commit other Federal crimes, we mean to send a strong signal to all those who would commit this increasingly popular crime that the relatively free ride they have experienced in recent years is over.

No longer will prosecutors decline to take identity theft seriously. No longer will identity thieves get off with just a slap on the wrist, if they are prosecuted at all. Under this legislation, penalties will be severe, prosecution will be more likely, and cases against identity thieves will be easier to prove.

Every day in this country serious criminals and criminal organizations are stealing and falsifying identities with the purpose of doing serious harm to common citizens, government officials, or even our Nation itself. It is time we did something about it, and this bill is an important step in that process.

I urge my colleagues to support this bill, and 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. 153

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 ''Identity Theft Penalty Enhancement Act''.

SEC. 2. AGGRAVATED IDENTITY THEFT.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1028, the following:

''§ 1028A. Aggravated identity theft

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

''(2) TERRORISM OFFENSE.—Whoever, during and in relation to any felony violation enumerated in section 2332b(g)(5)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

''(b) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

''(1) a court shall not place on probation any person convicted of a violation of this section;

''(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

''(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

''(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

''(c) DEFINITION.—For purposes of this section, the term 'felony violation enumerated in subsection (c)' means any offense that is a felony violation of—

''(1) section 664 (relating to theft from employee benefit plans);

''(2) section 911 (relating to false personation of citizenship);

''(3) section 922(a)(6) (relating to false statements in connection with the acquisition of a firearm);

''(4) any provision contained in this chapter (relating to fraud and false statements), other than this section or section 1028(a)(7);

''(5) any provision contained in chapter 63 (relating to mail, bank, and wire fraud);

''(6) any provision contained in chapter 69 (relating to nationality and citizenship);

''(7) any provision contained in chapter 75 (relating to passports and visas);

''(8) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

''(9) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to willfully failing to leave the United States after deportation and creating a counterfeit alien registration card);

''(10) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); or

''(11) section 208, 1107(b), or 1128B(a) of the Social Security Act (42 U.S.C. 408, 1307(b), and 1320a–7b(a)) (relating to false statements relating to programs under the Act).''.

(b) AMENDMENT TO CHAPTER ANALYSIS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

''1028A. Aggravated identity theft.''.

SEC. 3. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7)—

(A) by striking ''transfers'' and inserting ''transfers, possesses,''; and

(B) by striking ''abet,'' and inserting ''abet, or in connection with,'';

(2) in subsection (b)(1)(D), by striking ''transfer'' and inserting ''transfer, possession,'';

(3) in subsection (b)(2), by striking ''three years'' and inserting ''5 years''; and

(4) in subsection (b)(4), by inserting after ''facilitate'' the following: ''an act of domestic terrorism (as defined under section 2331(5) of this title) or''.

By Mr. VOINOVICH (for himself and Mr. INHOFE):

S. 156. A bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions; to the Committee on Environmental and Public Works.

Mr. VOINOVICH. Mr. President, I rise today, as the Chairman of the Clean Air, Climate Change, and Nuclear Safety Subcommittee, to introduce a bill to reauthorize the Price-Anderson Act. While the Act was first passed in 1957 and has been renewed three times, the current authorization expired on August 1, 2002 for Nuclear Regulatory Commission licensees. The growth of nuclear power depends greatly on the reauthorization of this Act, which provides liability for damages to the general public from nuclear incidents.

It is important for the American public to understand how the Price-Anderson liability program works. The nuclear industry actually funds the program; it is not a Federal subsidy. Each nuclear power plant purchases liability insurance from private insurers to cover the first $200 million for immediate response in the case of an accident. If the damages amounted to more than this amount, a second level of financial protection would apply. In these cases, each of the U.S. licensed nuclear units would pay up to $10 million annually into a collective fund to cover the damages, with a maximum payment of $88.1 million per accident. This, together with the $200 million in insurance money, provides a total of about $9.3 billion in insurance coverage to compensate the public in the case of a nuclear accident. If more than this amount is needed, Congress could then go back to the industry and demand a larger contribution.

This is an incredible system. I am not aware of any facility in the country or world that is insured for up to $9.3 billion. Neither do I know of any other industry in which all of the competitors agree up front to pay for the mistakes or acts of God that affect any one company. Furthermore, instead of fighting claims in court, the industry waives its traditional tort defense so that the fund begins making payments immediately. This means that if there were a nuclear disaster somewhere, the insurance companies would immediately start paying out claims. In fact, after the Three Mile Island incident, claims offices were on the site within 24 hours. This program provides extensive insurance coverage and provides it up front.

The expiration of this program affects only new NRC licenses, not existing licensees. Without the program, a new nuclear facility would be unable to obtain the liability insurance that this program provides, making new licenses very improbable, if not impossible.

Nuclear energy is important to our Nation's national security, economy, and environment. America's nuclear energy industry currently provides approximately 20 percent of our energy. It is a safe, reliable, and zero-emission source of energy. This has had a tremendous positive effect on the environment and public health. Since 1973, nuclear energy has prevented 62 million tons of sulfur dioxide, a key component of acid rain, and 32 million tons of nitrogen oxide, a precursor to ozone, from being released into the atmosphere. Arguably, nuclear power has contributed more to achieving a reduction in emissions than any other source of energy, except possibly solar, wind, and hydropower.

Our Nation needs to do whatever it can to promote a safe and efficient nuclear energy industry and encourage the development of new nuclear reactors. Reauthorizing the Price-Anderson Act is a major step in that direction.

During the previous administration, both the Department of Energy and the NRC issued reports to Congress recommending the reauthorization of Price-Anderson. Last Congress, I introduced legislation to reauthorize Price-Anderson, S. 1360, and included these provisions in an amendment that I proposed to the energy bill. My amendment, S. Amdt. 2983, was agreed to by a vote of 78–21 on March 7, 2002. This amendment reauthorized the program for both DOE contractors and NRC licensees. The amendment falls under the shared jurisdiction of both the Energy Committee for contractors and the Environment and Public Works Committee for NRC licensees. I look forward to working with the EPW Committee to pass this bill to reauthorize the Price-Anderson Act for 10 years for NRC licensees.

I thank Senator INHOFE for joining me in cosponsoring this bill. The Price-Anderson Act is so vital to the future expansion of our nuclear energy industry. I urge the speedy consideration and passage of this bill.

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

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

S. 156

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 ''Price-Anderson Amendments Act of 2003''.

SEC. 2. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and

(2) by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

SEC. 3. REPORTS.

Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2008''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act take effect on August 1, 2002.

By Mr. CORZINE (for himself, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, and Mr. LAUTENBERG):

S. 157. A bill to help protect the public against the threat of chemical attacks; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President, I rise today to reintroduce an important piece of legislation that I worked on in the 107th Congress, the Chemical Security Act. I am proud to be joined by Senators JEFFORDS, BOXER, CLINTON, and LAUTENBERG in reintroducing this bill. Senators JEFFORDS, BOXER, and CLINTON were all strong allies in the 107th Congress, and I thank them for their continuing support. And I am pleased to have Senator LAUTENBERG as a cosponsor. He has a long history of working to protect communities from all types of chemical threats. I particularly want to thank Senator JEFFORDS for his hard work on this legislation in the 107th Congress. As Chairman of the Environment and Public Works committee, he provided critical leadership in bringing this bill through the committee successfully. I thank him and his staff for their hard work and look forward to continuing to work with them on this important issue.

I'll describe what the bill does in a minute. But first I want to briefly explain why I think this legislation is so important.

September 11 shocked us into the realization that our assets can be turned against us by terrorists. If you are a New Jersey Senator, you don't have to think about that idea for too long before you realize that chemical plants and other facilities that have hazardous chemicals would be high on a terrorists' list. The fact is, that we have a lot of those types of facilities in my State, and because we're such a densely populated State, chemical releases from these facilities pose grave risks. In fact, according to EPA data, there are eight plants in my State where a worst-case release of toxic chemicals could threaten more than a million people.

But this is not a parochial issue. The same EPA data shows that there are 110 plants nationwide where such a release could threaten more than a million people. These plants are located in 22 States. And there are 44 States that have at least one facility where such a release could threaten more than 100,000 people.

I want to be clear that I am stating these facts here today in an effort to advance a measure that would protect workers and communities, not in an attempt to vilify our nations' chemical companies. Indeed, these companies are a key part of our industrial fabric, providing jobs and producing products essential to our lives. This is certainly true of my home State of New Jersey, as I have already indicated.

But when you look at the numbers, as I have laid them out here today, you realize that we have a problem to deal with. I'm certainly not unique in recognizing this issue, EPA, the Justice Department, the Nuclear Regulatory Commissions, industry groups, and public safety groups all agree. In addition, the White House Strategy for Homeland Security recognizes the chemical and hazardous materials sector as an infrastructure protection priority. Governor Ridge amplified this point in his testimony before the Senate Environment Public Works committee on July 10 of last year. He said that:

> The fact is, we have a very diversified economy and our enemies look at some of our economic assets as targets. And clearly, the chemical facilities are one of them. We know that there have been reports validated about security deficiencies at dozens and dozens of those.

I want to pick up on that last point that Governor Ridge made about security deficiencies, because it speaks to why I am putting this bill forward.

Some companies have taken actions and are continuing to work to implement security measures in light of the post-September 11 environments. Others, however, are not. That's one crucial reason why a Federal program is needed. We need to be able to assure our constituents that this major vulnerability is being addressed in a swift and effective manner. We also want to assure them that certain minimum standards are being met throughout the country.

We already do that to address certain infrastructure vulnerabilities. Most notably, we require nuclear power plants to meet extensive security standards as a condition of their operating licenses. I think we ought to tighten those standards, but the fact is that we have no standards at all for our chemical facilities.

Before I go into specifics, I want to outline the general organizational scheme of the bill. In my view, addressing the risk to communities from a terrorist-caused release of hazardous chemicals requires two fundamental components. The first is improving security, so that the likelihood of a successful terrorist attack is lowered. The second is reducing hazards so that the impact of a successful attack is minimized.

This requires two fundamentally different types of expertise and skills. That's why the bill involves both the EPA and the Department of Homeland Security. EPA has the chemical hazard expertise, and the Department of Homeland Security has the security expertise. EPA has a lead role in most of the bill, because it already has relationships with chemical facilities through its existing accident prevention programs.

As to the specifics of the bill, I think it is a common-sense approach to dealing with the issue. I want to note that this bill is nearly identical to the version of the bill that was reported out of the Senate Environment and Public Works Committee last July by a 19–0 vote. Two minor technical changes have been made to clarify the intent of the legislation, but it is otherwise exactly the same as the committee-reported bill that was acted on unanimously by the EPW committee last year.

The heart of the bill is section 4. This section requires EPA and the Department of Homeland Security to identify ''high priority'' chemical facilities and then require those facilities to assess vulnerabilities and hazards, and then develop and implement a plan to improve security and use safer technologies.

Section 4(a)(1) establishes the priority setting process, by which the EPA Administrator, in consultation the Secretary of the Department of Homeland Security, as well as States and local government entities, is directed to identify high priority chemical facilities, based on factors identified in section 4(a)(2). These factors include the severity of harm that could be caused by a chemical release, proximity to population centers, threats to national security or critical infrastructure, threshold quantities of substances of concern that pose a serious threat, and such other safety or security factors that the Administrator considers appropriate.

Because of the way the bill is structured, this means that EPA and the Department of Homeland Security are directed to start with the facilities that are subject to EPA's Risk Management Program requirements. This program applies to approximately 15,000 facilities in the United States that use, produce or store large quantities of hazardous chemicals. By applying the factors I mentioned, the priority setting process is meant to shorten this list of 15,000 facilities considerably. But the bill leaves it up to the Administration to determine exactly how many facilities within this universe ought to be covered by the bill.

So that's step one, setting priorities, and that has to be done within one year of enactment.

At this point, I want to mention the first of the clarifying technical changes that I have made to the bill. It was never the intent, nor I believe the effect, of the bill to include propane retailers as potentially regulated entities under this bill. But there was some confusion about the point after the bill was marked up last July. So last fall, I worked with the National Propane Gas Association on language that eliminates this confusion, and it is included in this bill. So I again want to make clear that the same propane retailers who are not subject to the EPA Risk Management Program requirements will not be ''high priority'' facilities under this bill, and therefore will not be subject to its requirements.

In addition to identifying high priority facilities within the first year, EPA and the Department of Homeland Security must also promulgate regulations to require the high priority facilities to take the following steps: conduct a vulnerability and hazard assessment within one year after the regulations are promulgated; prepare and implement a response plan that addresses those vulnerabilities within 18 months after the regulations are promulgated.

I want to say more about the assessments and response plans, because these requirements are really the core of the amendment.

First, the amendment requires chemical facilities to work with local law enforcement and first responders, such as firefighters, in developing the assessments and plans. The second of the clarifying technical changes that I referred to in the opening part of my statement is simply to make clear the firefighters are among the first responders that the bill is referring to.

September 11 showed us how brave and important these our first responders are. Every day, they are willing to risk their lives to respond to terrorist attacks if they need to. So it makes sense that they ought to be a part of the process of developing vulnerability assessments and response plans, as this bill would require.

The same goes for employees of the high priority chemical facilities. They're on the front lines, which means two things. First, they are most at risk in case of a terrorist attack on their plants. Second, because they work in the plants every day, they will have ideas about how to secure the facilities and reduce hazards. So employees are part of the process as well.

As to the assessments and plans themselves, the requirements in the bill are fairly general. There are a variety of vulnerability assessment tools that have already been developed by groups such as Sandia laboratories and the Center for Chemical Process Safety. I would expect that EPA and DHS would take advantage of existing methodologies such as these, but the bill leaves it up to the experts to decide what types of approaches make the most sense. And that probably won't be the same for everyone, I'm not advocating a one-size-fits-all approach here. But I do want to be sure that all of the high priority chemical facilities do a credible vulnerability assessment.

The response plan requirements are also fairly general. Each facility is required to prepare prevention, preparedness and response plan that incorporates the results of the assessments. The plan must include actions and procedures, including safer design and maintenance, to eliminate or significantly lessen the potential consequences of a release.

What this means in simple terms is that each facility has to develop a plan and take steps to reduce both the likelihood of a successful attack and to the harm that would occur if an attack were successful. In other words, they have to look at traditional security measures, such as fences, alarms, and guards. But they also have to look at whether they can make the plant safer. In other words, can less hazardous chemicals be used? Can containment technology such as fans or scrubbers be improved or employed to contain chemicals that may be released? Chemical facilities ought to evaluate the full range of options, look at the tradeoffs among them, and go forward with the best mix of security and technology options.

Facilities are then required to send their assessments and plans to the EPA. EPA and DHS must review those assessments and plans, and certify compliance with the regulations. Any deficiencies identified by EPA and DHS can be remedies by issuance of an order. But the order can only be issued after a deliberate process that includes notification, compliance assistance, and an opportunity for a hearing.

The certification process is there to ensure the public that facilities are complying the law. Those certifications will be the only information

from the assessments and plans that is publicly available. The bill exempts all other information produced under the bill, most importantly, the assessments and plans themselves, from disclosure under the Freedom of Information Act. I don't take FOIA exemptions lightly. I believe strongly that, in general, the public has a right to information collected by the government. But I think it's pretty obvious that in the case of the information that would be submitted to the government under this bill, the vulnerability assessments and response plans, we simply can't allow the security details in these plans to be publicly available. But I think it does make sense that people who live near a chemical plant be able to find out from EPA and the DHS whether or not that plant has complied with the law.

The bill goes even beyond FOIA exemptions to protect the assessments and plans. To ensure that the assessments and plans are properly safeguarded, the bill includes a requirement for EPA and Homeland Security to develop protocols to prevent unauthorized disclosure of those documents. And it attaches penalties to unauthorized disclosure.

That's the essence of the bill.

First, identify ''high priority'' chemical facilities.

Second, require those facilities to assess vulnerabilities and hazards, and then develop and implement a plan to improve security and implement safer technologies.

Third, EPA and the Department of Homeland Security review the assessments and plans, and they have the authority to require changes if deficiencies are identified.

Fourth, assessments and plans are protected from unauthorized disclosure through a FOIA exemption and penalties that apply to unauthorized disclosure.

The bill also includes an early compliance section that is designed to address concerns that the bill might slow ongoing voluntary security efforts. This provision enables companies to submit assessments and plans prior to promulgation of the regulations and have them judged by the standards in the Act. So companies don't have to wait for the regulations to come out to continue work or to submit plans.

In conclusion, I think this is a balanced bill that puts common-sense requirements in place to deal with a significant problem. I think the bill has moved a long way from the introduced bill. It has accommodated many of the concerns that industry raised about the bill I introduced in the 107th Congress. It reflects intensive bipartisan negotiations, and I think it's a good bill.

At the same time, I recognize that some of my colleagues have continuing concerns about the legislation. Last fall, I worked with Senators INHOFE, BREAUX, LANDRIEU and LINCOLN on these issues. I want them to know that I remain open-minded and committed to working with them, the rest of my colleagues and the Administration to resolve these issues so we can move quickly to protect Americans from the threat of attack on chemical facilities. And I want to extend the same commitment not only to the environmental and labor organizations that have supported the bill in the past, but also to the various industry groups that have worked on this bill. It's vital that we all find common ground quickly, and I stand ready to work with all interested parties.

I want to close by expressing both my sense of urgency about this issue and my optimism that we will be able to move legislation quickly. Last fall, Governor Ridge and Administrator Whitman wrote to the Washington Post expressing their support for bipartisan legislation to deal with the chemical security threat. I ask unanimous consent that that letter be printed in the RECORD.

I believe the letter was sincere, but the Administration has not yet engaged the Congress on this issue. I urge President Bush to provide leadership to ensure that his Administration works with us as the process moves forward.

I am also encouraged that Senator INHOFE has identified chemical security as a legislative priority as he assumes the Chairmanship of the Environment and Public Works committee. I congratulate him on his new post, and again express my willingness to work with him on this important issue.

With that, I yield the floor and urge my colleagues to support this important legislation.

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

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

[From the Washington Post, Oct. 6, 2002]

A SECURITY REQUIREMENT

The Bush administration is committed to reducing the vulnerability of America's chemical facilities to terrorist attack and is working to enact bipartisan legislation that would require such facilities to address their vulnerabilities [news story, Oct. 3].

We applaud voluntary efforts some in the industry have undertaken, but we believe that every one of the 15,000 chemical facilities nationwide that contain large quantities of hazardous chemicals must be required to take the steps the industry leaders are taking at their facilities; performing comprehensive vulnerability assessments and then acting to reduce those vulnerabilities.

Voluntary efforts alone are not sufficient to provide the level of assurance Americans deserve. We will continue to work with Congress to advance this important homeland security goal.

S. 157

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 ''Chemical Security Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the chemical industry is a crucial part of the critical infrastructure of the United States—

(A) in its own right; and

(B) because that industry supplies resources essential to the functioning of other critical infrastructures;

(2) the possibility of terrorist and criminal attacks on chemical sources (such as industrial facilities) poses a serious threat to public health, safety, and welfare, critical infrastructure, national security, and the environment;

(3) the possibility of theft of dangerous chemicals from chemical sources for use in terrorist attacks poses a further threat to public health, safety, and welfare, critical infrastructure, national security, and the environment; and

(4) there are significant opportunities to prevent theft from, and criminal attack on, chemical sources and reduce the harm that such acts would produce by—

(A)(i) reducing usage and storage of chemicals by changing production methods and processes; and

(ii) employing inherently safer technologies in the manufacture, transport, and use of chemicals;

(B) enhancing secondary containment and other existing mitigation measures; and

(C) improving security.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) CHEMICAL SOURCE.—The term ''chemical source'' means a stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) that contains a substance of concern.

(3) COVERED SUBSTANCE OF CONCERN.—The term ''covered substance of concern'' means a substance of concern that, in combination with a chemical source and other factors, is designated as a high priority category by the Administrator under section 4(a)(1).

(4) EMPLOYEE.—The term ''employee'' means—

(A) a duly recognized collective bargaining representative at a chemical source; or

(B) in the absence of such a representative, other appropriate personnel.

(5) FIRST RESPONDER.—The term ''first responder'' includes a firefighter.

(6) HEAD OF THE OFFICE.—The term ''head of the Office'' means the Secretary of Homeland Security.

(7) SAFER DESIGN AND MAINTENANCE.—The term ''safer design and maintenance'' includes, with respect to a chemical source that is within a high priority category designated under section 4(a)(1), implementation, to the extent practicable, of the practices of—

(A) preventing or reducing the vulnerability of the chemical source to a release of a covered substance of concern through use of inherently safer technology;

(B) reducing any vulnerability of the chemical source to a release of a covered substance of concern through use of well-maintained secondary containment, control, or mitigation equipment;

(C) reducing any vulnerability of the chemical source to a release of a covered substance of concern by implementing security measures; and

(D) reducing the potential consequences of any vulnerability of the chemical source to a release of a covered substance of concern through the use of buffer zones between the chemical source and surrounding populations (including buffer zones between the chemical source and residences, schools, hospitals, senior centers, shopping centers and malls,

sports and entertainment arenas, public roads and transportation routes, and other population centers).

(8) SECURITY MEASURE.—

(A) IN GENERAL.—The term ''security measure'' means an action carried out to increase the security of a chemical source.

(B) INCLUSIONS.—The term ''security measure'', with respect to a chemical source, includes—

(i) employee training and background checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) protection of the perimeter of the chemical source;

(iv) the installation and operation of an intrusion detection sensor; and

(v) a measure to increase computer or computer network security.

(9) SUBSTANCE OF CONCERN.—

(A) IN GENERAL.—The term ''substance of concern'' means—

(i) any regulated substance (as defined in section 112(r) of the Clean Air Act (42 U.S.C. 7412(r))); and

(ii) any substance designated by the Administrator under section 4(a).

(B) EXCLUSION.—The term ''substance of concern'' does not include liquefied petroleum gas that is used as fuel or held for sale as fuel at a retail facility as described in section 112(r)(4)(B) of the Clean Air Act (42 U.S.C. 7412(r)(4)(B)).

(10) UNAUTHORIZED RELEASE.—The term ''unauthorized release'' means—

(A) a release from a chemical source into the environment of a covered substance of concern that is caused, in whole or in part, by a criminal act;

(B) a release into the environment of a covered substance of concern that has been removed from a chemical source, in whole or in part, by a criminal act; and

(C) a release or removal from a chemical source of a covered substance of concern that is unauthorized by the owner or operator of the chemical source.

(11) USE OF INHERENTLY SAFER TECHNOLOGY.—

(A) IN GENERAL.—The term ''use of inherently safer technology'', with respect to a chemical source, means use of a technology, product, raw material, or practice that, as compared with the technologies, products, raw materials, or practices currently in use—

(i) reduces or eliminates the possibility of a release of a substance of concern from the chemical source prior to secondary containment, control, or mitigation; and

(ii) reduces or eliminates the threats to public health and the environment associated with a release or potential release of a substance of concern from the chemical source.

(B) INCLUSIONS.—The term ''use of inherently safer technology'' includes input substitution, catalyst or carrier substitution, process redesign (including reuse or recycling of a substance of concern), product reformulation, procedure simplification, and technology modification so as to—

(i) use less hazardous substances or benign substances;

(ii) use a smaller quantity of covered substances of concern;

(iii) reduce hazardous pressures or temperatures;

(iv) reduce the possibility and potential consequences of equipment failure and human error;

(v) improve inventory control and chemical use efficiency; and

(vi) reduce or eliminate storage, transportation, handling, disposal, and discharge of substances of concern.

SEC. 4. DESIGNATION OF AND REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.

(a) DESIGNATION AND REGULATION OF HIGH PRIORITY CATEGORIES BY THE ADMINISTRATOR.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the head of the Office and State and local agencies responsible for planning for and responding to unauthorized releases and providing emergency health care, shall promulgate regulations to designate certain combinations of chemical sources and substances of concern as high priority categories based on the severity of the threat posed by an unauthorized release from the chemical sources.

(2) FACTORS TO BE CONSIDERED.—In designating high priority categories under paragraph (1), the Administrator, in consultation with the head of the Office, shall consider—

(A) the severity of the harm that could be caused by an unauthorized release;

(B) the proximity to population centers;

(C) the threats to national security;

(D) the threats to critical infrastructure;

(E) threshold quantities of substances of concern that pose a serious threat; and

(F) such other safety or security factors as the Administrator, in consultation with the head of the Office, determines to be appropriate.

(3) REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the head of the Office, the United States Chemical Safety and Hazard Investigation Board, and State and local agencies described in paragraph (1), shall promulgate regulations to require each owner and each operator of a chemical source that is within a high priority category designated under paragraph (1), in consultation with local law enforcement, first responders, and employees, to—

(i) conduct an assessment of the vulnerability of the chemical source to a terrorist attack or other unauthorized release;

(ii) using appropriate hazard assessment techniques, identify hazards that may result from an unauthorized release of a covered substance of concern; and

(iii) prepare a prevention, preparedness, and response plan that incorporates the results of those vulnerability and hazard assessments.

(B) ACTIONS AND PROCEDURES.—A prevention, preparedness, and response plan required under subparagraph (A)(iii) shall include actions and procedures, including safer design and maintenance of the chemical source, to eliminate or significantly lessen the potential consequences of an unauthorized release of a covered substance of concern.

(C) THREAT INFORMATION.—To the maximum extent permitted by applicable authorities and the interests of national security, the head of the Office, in consultation with the Administrator, shall provide owners and operators of chemical sources with threat information relevant to the assessments and plans required under subsection (b).

(4) REVIEW AND REVISIONS.—Not later than 5 years after the date of promulgation of regulations under each of paragraphs (1) and (3), the Administrator, in consultation with the head of the Office, shall review the regulations and make any necessary revisions.

(5) ADDITION OF SUBSTANCES OF CONCERN.—For the purpose of designating high priority categories under paragraph (1) or any subsequent revision of the regulations promulgated under paragraph (1), the Administrator, in consultation with the head of the Office, may designate additional substances that pose a serious threat as substances of concern.

(b) CERTIFICATION.—

(1) VULNERABILITY AND HAZARD ASSESSMENTS.—Not later than 1 year after the date of promulgation of regulations under subsection (a)(3), each owner and each operator of a chemical source that is within a high priority category designated under subsection (a)(1) shall—

(A) certify to the Administrator that the chemical source has conducted assessments in accordance with the regulations; and

(B) submit to the Administrator written copies of the assessments.

(2) PREVENTION, PREPAREDNESS, AND RESPONSE PLANS.—Not later than 18 months after the date of promulgation of regulations under subsection (a)(3), the owner or operator shall—

(A) certify to the Administrator that the chemical source has completed a prevention, preparedness, and response plan that incorporates the results of the assessments and complies with the regulations; and

(B) submit to the Administrator a written copy of the plan.

(3) 5-YEAR REVIEW.—Not later than 5 years after each of the date of submission of a copy of an assessment under paragraph (1) and a plan under paragraph (2), and not less often than every 3 years thereafter, the owner or operator of the chemical source covered by the assessment or plan, in coordination with local law enforcement and first responders, shall—

(A) review the adequacy of the assessment or plan, as the case may be; and

(B)(i) certify to the Administrator that the chemical source has completed the review; and

(ii) as appropriate, submit to the Administrator any changes to the assessment or plan.

(4) PROTECTION OF INFORMATION.—

(A) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in paragraphs (1) through (3) of this subsection and section 5(a), all information provided to the Administrator under this subsection, and all information derived from that information, shall be exempt from disclosure under section 552 of title 5, United States Code.

(B) DEVELOPMENT OF PROTOCOLS.—

(i) IN GENERAL.—The Administrator, in consultation with the head of the Office, shall develop such protocols as are necessary to protect the copies of the assessments and plans required to be submitted under this subsection (including the information contained in those assessments and plans) from unauthorized disclosure.

(ii) REQUIREMENTS.—The protocols developed under clause (i) shall ensure that—

(I) each copy of an assessment or plan, and all information contained in or derived from the assessment or plan, is maintained in a secure location;

(II) except as provided in subparagraph (C), only individuals designated by the Administrator may have access to the copies of the assessments and plans; and

(III) no copy of an assessment or plan or any portion of an assessment or plan, and no information contained in or derived from an assessment or plan, shall be available to any person other than an individual designated by the Administrator.

(iii) DEADLINE.—As soon as practicable, but not later than 1 year after the date of enactment of this Act, the Administrator shall complete the development of protocols under clause (i) so as to ensure that the protocols are in place before the date on which the Administrator receives any assessment or plan under this subsection.

(C) FEDERAL OFFICERS AND EMPLOYEES.—An individual referred to in subparagraph (B)(ii)

who is an officer or employee of the United States may discuss with a State or local official the contents of an assessment or plan described in that subparagraph.

SEC. 5. ENFORCEMENT.

(a) REVIEW OF PLANS.—

(1) IN GENERAL.—The Administrator, in consultation with the head of the Office, shall review each assessment and plan submitted under section 4(b) to determine the compliance of the chemical source covered by the assessment or plan with regulations promulgated under paragraphs (1) and (3) of section 4(a).

(2) CERTIFICATION OF COMPLIANCE.—

(A) IN GENERAL.—The Administrator shall certify in writing each determination of the Administrator under paragraph (1).

(B) INCLUSIONS.—A certification of the Administrator shall include a checklist indicating consideration by a chemical source of the use of 4 elements of safer design and maintenance described in subparagraphs (A) through (D) of section 3(6).

(C) EARLY COMPLIANCE.—

(i) IN GENERAL.—The Administrator, in consultation with the head of the Office, shall—

(I) before the date of publication of proposed regulations under section 4(a)(3), review each assessment or plan submitted to the Administrator under section 4(b); and

(II) before the date of promulgation of final regulations under section 4(a)(3), determine whether each such assessment or plan meets the consultation, planning, and assessment requirements applicable to high priority categories under section 4(a)(3).

(ii) AFFIRMATIVE DETERMINATION.—If the Administrator, in consultation with the head of the Office, makes an affirmative determination under clause (i)(II), the Administrator shall certify compliance of an assessment or plan described in that clause without requiring any revision of the assessment or plan.

(D) SCHEDULE FOR REVIEW AND CERTIFICATION.—

(i) IN GENERAL.—The Administrator, after taking into consideration the factors described in section 4(a)(2), shall establish a schedule for the review and certification of assessments and plans submitted under section 4(b).

(ii) DEADLINE FOR COMPLETION.—Not later than 3 years after the deadlines for the submission of assessments and plans under paragraph (1) or (2), respectively, of section 4(b), the Administrator shall complete the review and certification of all assessments and plans submitted under those sections.

(b) COMPLIANCE ASSISTANCE.—

(1) DEFINITION OF DETERMINATION.—In this subsection, the term ''determination'' means a determination by the Administrator that, with respect to an assessment or plan described in section 4(b)—

(A) the assessment or plan does not comply with regulations promulgated under paragraphs (1) and (3) of section 4(a); or

(B)(i) a threat exists beyond the scope of the submitted plan; or

(ii) current implementation of the plan is insufficient to address—

(I) the results of an assessment of a source; or

(II) a threat described in clause (i).

(2) DETERMINATION BY ADMINISTRATOR.—If the Administrator, after consultation with the head of the Office, makes a determination, the Administrator shall—

(A) notify the chemical source of the determination; and

(B) provide such advice and technical assistance, in coordination with the head of the Office and the United States Chemical Safety and Hazard Investigation Board, as is appropriate—

(i) to bring the assessment or plan of a chemical source described in section 4(b) into compliance; or

(ii) to address any threat described in clause (i) or (ii) of paragraph (1)(B).

(c) COMPLIANCE ORDERS.—

(1) IN GENERAL.—If, after the date that is 30 days after the later of the date on which the Administrator first provides assistance, or a chemical source receives notice, under subsection (b)(2)(B), a chemical source has not brought an assessment or plan for which the assistance is provided into compliance with regulations promulgated under paragraphs (1) and (3) of section 4(a), or the chemical source has not complied with an entry or information request under section 6, the Administrator may issue an order directing compliance by the chemical source.

(2) NOTICE AND OPPORTUNITY FOR HEARING.—An order under paragraph (1) may be issued only after notice and opportunity for a hearing.

(d) ABATEMENT ACTION.—

(1) IN GENERAL.—Notwithstanding a certification under section 5(a)(2), if the head of the Office, in consultation with local law enforcement officials and first responders, determines that a threat of a terrorist attack exists that is beyond the scope of a submitted prevention, preparedness, and response plan of 1 or more chemical sources, or current implementation of the plan is insufficient to address the results of an assessment of a source or a threat described in subsection (b)(1)(B)(i), the head of the Office shall notify each chemical source of the elevated threat.

(2) INSUFFICIENT RESPONSE.—If the head of the Office determines that a chemical source has not taken appropriate action in response to a notification under paragraph (1), the head of the Office shall notify the chemical source, the Administrator, and the Attorney General that actions taken by the chemical source in response to the notification are insufficient.

(3) RELIEF.—

(A) IN GENERAL.—On receipt of a notification under paragraph (2), the Administrator or the Attorney General may secure such relief as is necessary to abate a threat described in paragraph (1), including such orders as are necessary to protect public health or welfare.

(B) JURISDICTION.—The district court of the United States for the district in which a threat described in paragraph (1) occurs shall have jurisdiction to grant such relief as the Administrator or Attorney General requests under subparagraph (A).

SEC. 6. RECORDKEEPING AND ENTRY.

(a) RECORDS MAINTENANCE.—A chemical source that is required to certify to the Administrator assessments and plans under section 4 shall maintain on the premises of the chemical source a current copy of those assessments and plans.

(b) RIGHT OF ENTRY.—In carrying out this Act, the Administrator (or an authorized representative of the Administrator), on presentation of credentials—

(1) shall have a right of entry to, on, or through any premises of an owner or operator of a chemical source described in subsection (a) or any premises in which any records required to be maintained under subsection (a) are located; and

(2) may at reasonable times have access to, and may copy, any records, reports, or other information described in subsection (a).

(c) INFORMATION REQUESTS.—In carrying out this Act, the Administrator may require any chemical source to provide such information as is necessary to—

(1) enforce this Act; and

(2) promulgate or enforce regulations under this Act.

SEC. 7. PENALTIES.

(a) CIVIL PENALTIES.—Any owner or operator of a chemical source that violates, or fails to comply with, any order issued may, in an action brought in United States district court, be subject to a civil penalty of not more than $25,000 for each day in which such violation occurs or such failure to comply continues.

(b) CRIMINAL PENALTIES.—Any owner or operator of a chemical source that knowingly violates, or fails to comply with, any order issued shall—

(1) in the case of a first violation or failure to comply, be fined not less than $2,500 nor more than $25,000 per day of violation, imprisoned not more than 1 year, or both; and

(2) in the case of a subsequent violation or failure to comply, be fined not more than $50,000 per day of violation, imprisoned not more than 2 years, or both.

(c) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—If the amount of a civil penalty determined under subsection (a) does not exceed $125,000, the penalty may be assessed in an order issued by the Administrator.

(2) NOTICE AND HEARING.—Before issuing an order described in paragraph (1), the Administrator shall provide to the person against which the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the notice is received by the person, a hearing on the proposed order.

SEC. 8. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

Nothing in this Act affects any duty or other requirement imposed under any other Federal or State law.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

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

By Ms. SNOWE (for herself and Mr. BOND):

S. 158. A bill to amend the Internal Revenue Code of 1986 to expand the depreciation benefits available to small business, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Small Business Expensing Improvement Act of 2003 on behalf of the Nation's millions of small businesses and self-employed individuals. I am pleased to be joining with my colleague in the House, Congressman WALLY HERGER, to move this important initiative for small business toward enactment.

This legislation embodies a leading provision of the President's economic recovery package for small businesses and entrepreneurs in this country. By enabling small firms to expense more of the equipment they purchase, this bill provides a tailor-made incentive for the small business sector of our economy to invest in new technology and expand their operations.

We should never under-state the role that small businesses play in our economy. They represent 99 percent of all employers, employ 51 percent of the private-sector workforce, provide about 75 percent of the net new jobs, contribute 51 percent of the private-sector output, and represent 96 percent of all exporters of goods. In short, size

is the only ''small'' aspect of small business.

The bill I introduce today recognizes the vitality of the small business and entrepreneurs in America. Regrettably, when we enacted stimulus legislation last year, we missed a tremendous opportunity to improve a provision of the tax law aimed directly at small firms, Section 179 of the Internal Revenue Code, which enables small businesses to write off the cost of new equipment, rather than depreciate it over a period of years. During the Senate's consideration of last year's stimulus bill, we approved an increase to the expensing limits by a vote of 90–2. Sadly, that provision was dropped from the final package that was sent to the President.

As the incoming Chair of the Senate Committee on Small Business and Entrepreneurship, I intend to correct that error by responding to the calls from small businesses in my State of Maine and from across the country for greater expensing of new equipment. I applaud the President for making this issue a key part of his economic recovery proposal.

By tripling the current expensing limit to $75,000, broadening the phase-out of this provision, and indexing these amounts for inflation, this bill will achieve two important objectives. First, qualifying businesses will be able to write off more of the equipment purchases today, instead of waiting five, seven or more years to recover their costs through depreciation.

That represents substantial savings both in dollars and in the time small businesses would otherwise have to spend complying with the complex depreciation rules. Moreover, new equipment will contribute to continued productivity growth in the business community, which Federal Reserve Chairman Alan Greenspan has repeatedly stressed is essential to the long-term vitality of our economy.

Second, as a result of this bill, more businesses will qualify for this benefit because the phase-out limit will be increased from the current $200,000 to $325,000 in new equipment purchases. At the same time, small business capital investment will be pumping more money into the retail-sector of the economy. Accordingly, this is a win-win for small business and the economy as a whole.

I am confident that small businesses will lead us out of the current economic problems as they have in past downturns. We have a tremendous opportunity to help small enterprises succeed by providing an incentive for reinvestment and leaving them more of their earnings to do just that. I urge my colleagues to join me in supporting this important legislation as we work with the President to enact this bill into law.

I ask unanimous consent that following my statement, the text of the bill and an explanation of its provisions be printed in the RECORD.

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

S. 158

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 ''Small Business Expensing Improvement Act of 2003''.

SEC. 2. MODIFICATIONS TO EXPENSING UNDER SECTION 179.

(a) INCREASE OF AMOUNT WHICH MAY BE EXPENSED.—

(1) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $75,000.''

(2) INCREASE IN PHASEOUT THRESHOLD.—Paragraph (2) of section 179(b) of such Code is amended by striking ''$200,000'' and inserting ''$325,000''.

(3) INFLATION ADJUSTMENT OF DOLLAR AMOUNTS.—Subsection (b) of section 179 of such Code is amended by adding at the end the following new paragraph:

''(5) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2003, each dollar amount contained in paragraph (1) or (2) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount, as adjusted under the preceding sentence, is not a multiple of $1,000 ($10,000 in the case of the dollar amount contained in paragraph (2)), such amount shall be rounded to the nearest multiple of $1,000 or $10,000, as the case may be.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 2002.

SMALL BUSINESS WORKS ACT OF 2001—DESCRIPTION OF PROVISIONS

The bill amends section 179 of the Internal Revenue Code to increase the amount of equipment purchases that small businesses may expense each year from the current $25,000 to $75,000. This change will eliminate the complexity and burdensome record-keeping involved in depreciating such equipment and free up capital for small businesses to grow and create jobs.

The bill also increases the phase-out limitation for equipment expensing from the current $200,000 to $325,000, thereby expanding the number of small businesses that can qualify for section 179 expensing and the value of equipment that can be expensed currently. This limitation along with the annual expensing amount will be indexed for inflation under the bill beginning in 2004.

The equipment-expensing provisions will be effective for equipment placed in service in taxable years beginning after December 31, 2002.

By Mrs. BOXER (for herself and Mr. ALLEN):

S. 159. A bill to require the Federal Communications Commission to allocate additional spectrum for unlicensed use by wireless broadband devices, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, today, Senator ALLEN and I are introducing the Jumpstart Broadband Act. The Act directs the FCC to set aside an additional 255 megahertz of spectrum in the 5 gigahertz band for unlicensed devices to use to deploy broadband connections. It also directs the FCC to establish rules to minimize interference in that spectrum among devices and to ensure that Department of Defense systems operating in that spectrum are not compromised.

We need this legislation to unleash the potential of new, exciting technologies that promise to deliver high-speed broadband connections wirelessly. Currently, congestion and interference from numerous devices such as cordless phones, ham radios, microwave ovens, ham radios and garage door openers is limiting the potential of these new networks. If we can tap the potential of high-speed broadband, then we can provide numerous benefits to the American people as well as create jobs in high tech industries.

I know that talking about megahertz and spectrum seems somewhat esoteric. But we strongly believe our bill will have real world implications for families, workers, and communities. Making additional spectrum available for new wireless broadband technologies will help make broadband connections more attractive to consumers by extending the reach of those connections. That means more people will sign up for wired connections, creating jobs in the turbulent telecommunications and high-tech industries. Also, as technologies thrive in this area, manufacturers will also create jobs producing and selling more devices to make the connections work.

One such technology is called wireless fidelity, or Wi-Fi for short. In the home, wireless networking can link all the digital products in your house, computers, printers, handheld organizers, DVD players, to each other and to the Internet without cables. Imagine a PC in the bedroom transfering songs to a music system in a car parked in the garage. Imagine an oven being turned on via the Internet by a worker stuck at the office, allowing him to get home to a meal that cooked while he or she commuted.

In rural areas, wireless technologies have the potential to allow communities to use signal repeaters to bring Internet connections to places where wires do not reach, or where the signal over the wire is too weak. Another possibility is that current or new technologies can be manipulated to extend the reach of the initial connection longer distances without repeaters. Our legislation will make all of those kinds connections more likely and reliable.

The benefits greater use of wireless broadband connections are numerous. For rural health clinics, for example, these new wireless connections would connect them quickly to resources at hospitals in cities hundreds of miles away. For schools anywhere, an efficient wireless connection would save

them the cost of knocking down walls to wire the entire school.

Senator ALLEN and I circulated a draft of this legislation in November 2002 and the response we received from the technology and consumer electronics communities was very positive. We made some modifications to address the concerns that some in the cellular community expressed and worked hard to ensure that the new spectrum would allow a variety of new technologies to thrive with minimum rules of operation in the spectrum . Our first modification was to specify that the spectrum would be allocated in the 5 gigahertz band rather than below 6 gigahertz. The previous language was of concern to cellular companies that operate below 3 gigahertz. The second modification was to limit any new FCC rules only to rules that ensure robust and efficient use of the spectrum for broadband delivery devices.

It is our hope that this bill will provide the sparkplug necessary to help jumpstart the broadband market. I look forward to working on this bill with Senator ALLEN and the rest of our colleagues in the 108th Congress.

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. 159

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 ''Jumpstart Broadband Act''.

SEC. 2. ENCOURAGEMENT OF NEW TECHNOLOGIES.

(a) UNLICENSED NATIONAL INFORMATION INFRASTRUCTURE DEVICES.—

(1) IMMEDIATE ALLOCATION OF SPECTRUM.—Within 180 days after the date of enactment of this Act, the Commission shall allocate not less than an additional 255 megahertz of contiguous spectrum in the 5 gigahertz band for unlicensed use by wireless broadband devices while ensuring that Department of Defense devices and systems are not compromised.

(2) INTERFERENCE PROTECTION.—Within 180 days after the date of enactment of this Act, the National Telecommunications and Information Administration shall, after consultation with all interested agencies and parties, including the Department of Defense, establish standards for interference protection that is reasonably required to enable incumbent Federal government agency users of spectrum allocated under paragraph (1) to continue to use that spectrum, and advise the Commission of those standards.

(3) DEVICE REQUIREMENTS.—Within 360 days after the date of enactment of this Act, the Commission shall—

(A) with respect to spectrum allocation under paragraph (1), adopt minimal technical and device rules to facilitate robust and efficient use for wireless broadband devices; and

(B) amend its rules to require that all wireless broadband devices manufactured after the effective date of those rules that operate in the spectrum allocated under paragraph (1)—

(i) be capable of 2-way digital communications;

(ii) meet the interference protection standards established under paragraph (2).

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) BROADBAND SERVICE.—The term ''broadband service'' means high rate digital transmission service—

(A) via cable modem, digital subscriber line, wireless, satellite, or other telecommunications technology; and

(B) capable of reliably transmitting voice, data, and/or video simultaneously between and among digital devices and between these devices and the Internet, on a consistent basis, at data transfer rates no slower than those defined from time to time by the Commission.

(3) WIRELESS BROADBAND DEVICE.—The term ''wireless broadband device'' includes—

(A) U–NII devices (as defined in section 15.403(i) of title 47, Code of Federal Regulations); and

(B) other devices used to access wireless broadband services.

(b) TERMS DEFINED IN THE COMMUNICATIONS ACT OF 1934.—Except as provided in subsection (a), any term used in this Act that is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153) has the meaning given that term in that section.

Mr. ALLEN. Mr. President, today I rise to introduce and present to my colleagues the Jumpstart Broadband Act of 2003. I am happy to be the lead Republican sponsor of this legislation and I want to thank my colleague from across the aisle, Senator BOXER, for working with me on this positive important issue.

The goal of the Jumpstart Broadband Act is to create an environment that embraces innovation and encourages the adoption of next-generation wireless broadband Internet devices. Most important, our legislation will build confidence among consumers, investors and innovators in the telecommunications and technology industries to eventually make the broadband dream a reality.

Unfortunately, we are all too familiar with the recession in the telecom sector. Analysts estimate that over the last 24 months approximately 500,000 jobs have been lost. Debt loads in the telecommunications sector range from anywhere between $500 billion to $1 trillion dollars. Since 1999 approximately $2 trillion dollars in market value has been lost in the telecom sector.

We know that promises of the Internet doubling every 100 days were never realized. Fanciful expectations like these have left this country with Internet bandwidth capacities that no levels of demand can sustain. Unfortunately for investors and the industry the ''if you build it, they will come'' business model did not materialize and is the primary reason the telecom and technology sectors are in a weak economic state.

Over this past few years Congress, and specifically the Senate, have been locked in debate over the best approach to promote and encourage widespread broadband adoption. There is no doubt that consumers, businesses and government officials fully recognize the importance of broadband to our communications capabilities and the economy. Indeed, the proliferation of next-generation broadband Internet connections will reinvigorate growth in the technology and telecommunications industries and improve our lives.

Economists at the Brookings Institution estimate that widespread, high-speed broadband access would increase the national GDP by $500 billion annually by 2006. Full deployment of broadband will substantially change and significantly impact every aspect of our society. Whether in education, healthcare, commerce, entertainment or government services; broadband deployment is a key aspect to improving this nation's overall economy and competitiveness.

However, the current debate over broadband has focused only on two platforms, Digital Subscriber Line, DSL, and cable and the regulatory treatment of those services. This perspective fails to consider that alternative modes or other technologies are available that can jumpstart consumer driven investment and demand in broadband services. I think it is beneficial to shift the policy discussion away from this debate and focus on something positive Congress can do that fosters innovation, stimulates the technology and telecom sectors, and encourages the adoption of broadband services.

The Jumpstart Broadband Act seeks to create an environment where alternative modes of broadband communications can be created and deployed into homes, schools, public places and businesses by making more spectrum available for exciting, new unlicensed wireless technologies. In doing so, the legislation directs the Federal Communications Commission, FCC, to set aside an additional 255 megahertz of spectrum in the 5 gigahertz band for unlicensed broadband devices. This allocation will harmonize wireless devices in the United States with the international allocation in countries like Japan, Brazil, Canada and Europe. The 5 gigahertz band also contains favorable propagation and power levels to provide reliable wireless service. Our legislation also directs the FCC to establish minimum rules of interference protection for devices in that spectrum and to ensure that Department of Defense systems operating in that spectrum are not compromised.

Our legislation complements and encourages the exciting work being done in the area of Wireless Local Area Networks, WLANs. Also known as Wireless Fidelity or WiFi, this technology provides wireless broadband service operating in the unlicensed spectrum bank with up to 10 megabits of capacity and an always-on connection. WiFi is a technology driven platform, viewed by many as a possible answer to wire-line

limitations and obstacles that exist in the current marketplace. WiFi however is only the beginning and this legislation will create an environment where cognitive radios and dynamic frequency selection of technologies can grow and innovate to offer services that are unimaginable today.

While I support a competitive telecommunications environment and have been an advocate for federal deregulation, the Jumpstart Broadband Act of 2003 moves the policy discussion away from this stagnant maginot line battle and offers an alternative invigorating approach that encourages innovation and creates confidence in the market.

Providing a way to jump start high speed broadband Internet access through the adoption of wireless broadband devices is vital to helping us keep pace with the new global economy. The benefits to Americans would include more jobs, increased productivity, improved health care delivery, and more accessible education. Our economy needs it, our technology sector needs it, and the American people will benefit from these new and innovative technologies.

I have been working together in a bipartisan fashion with Senator BOXER, and I am hopeful by also working with technologists, the Federal Communications Commission and the Department of Defense, we can move forward to create an alternative that promotes broadband adoption using advances in technology and spectrum efficiency.

By Mr. BURNS (for himself, Mr. BAUCUS, Mr. HATCH, Mr. BUNNING, Mr. KENNEDY, Mrs. CLINTON, Mr. SCHUMER, and Mr. GRAHAM of South Carolina).

S. 160. A bill to amend the Internal Revenue Code of 1986 to allow the expensing of broadband Internet access expenditures, and for other purposes; to the Committee on Finance.

Mr. BURNS. Mr. President, I come to the floor today with my colleague from Montana to introduce legislation to provide tax incentives to accelerate the deployment of ''broadband'' high-speed Internet access across the country. Broadband is an issue about which I feel very strongly, and upon which I will be very focused this year as chairman of the telecommunications subcommittee of the Commerce, Science and Transportation Committee.

Although many urban and suburban areas now have access to a broadband connection, many rural areas still do not. And that places rural areas at a disadvantage in a number of ways in terms of economic development, educational opportunities, health care and numerous other applications. By creating a financial incentive to encourage broadband providers to extend their networks into rural and other underserved areas, we can help overcome that disadvantage.

The bill will create a temporary tax incentive for providers in the form of ''expensing,'' allowing an immediate deduction of a capital expenditure in the first year of service rather than depreciating that investment over time. In the case of ''current generation'' broadband investments in rural and underserved areas, the bill will allow 50 percent expensing of the investment, with the rest to be depreciated according to normal depreciation schedules. And where providers build out ''next generation'' broadband networks, which are typically more expensive, the bill will provide for 100 percent expensing.

This legislation generally mirrors the broadband tax credit legislation introduced by my friend from West Virginia, Senator ROCKEFELLER, in the last Congress. I want to thank the Senator from West Virginia for his leadership on this issue. The only difference in that bill and the one we are introducing today is the form of the incentive, expensing rather than tax credits.

I am proud to tell you that the first broadband tax incentive in the Nation occurred in great State of Montana. In 1999, Montana enacted a broadband tax credit, which was in effect for 2 years. In those 2 years it had very positive results. Here is a quote from one of our public utility commissioners, Bob Rowe, in one of our State newspapers, The Missoulian, in June 2001, describing the effect of the Montana broadband credit:

> The results are impressive. Dozens of projects were awarded tax credits, most of them in rural Montana, places like Circle, Crow Agency, Superior and Big Timber. Projects included DSL, cable modems, and wireless. They also included projects to provide ''redundant'' access that is critical to many technology businesses in case service goes out.

That is the kind of effect which a broadband tax incentive can have. Circle, Crow Agency, Superior and Big Timber are not large metropolitan areas. They are small communities of a few hundred people. If a broadband incentive can have that kind of effect in those places, it can have that kind of effect anywhere.

Now, what has happened to the Montana broadband credit? Like many other State tax breaks all across the Nation, it has been suspended, not repealed, but suspended, because of the current budget shortfall which the state is facing, which is exactly why we should consider a Federal broadband incentive at this time, when we are beginning the process of crafting a package of growth measures to put our economy back on a solid footing.

And I firmly believe that broadband can have a positive effect on our economy. A number of very solid studies lead me to this conclusion. A study conducted by economists at the Federal Reserve Board concluded that information technology accounted for over 60 percent of the productivity growth occurring from 1995 to 1999.

During the first half of the 1990s, the average productivity increase was only 1.5 percent per year. Then, when the Internet began to be widely used, average annual productivity jumped to 2.8 percent in the second half of the decade. That is a very significant increase, and it occurred largely from the ''network effect'' of linking our computers. Now, what broadband will do is allow us to use those linked computers for much more advanced applications, video conferencing, real-time collaboration on large computer files, telemedicine, distance learning, etc.

And, for those of us from agricultural States, we should be aware of the applications that our farmers and ranchers might use: Remote livestock sales, remote monitoring of irrigation facilities, tele-veterinary, etc. Anyone who thinks farmers don't care about technology should spend some time on today's modern farm, and they will learn that American agriculture is one of the most innovative industries in the world.

Let me give you an example. Deere and Company, the farm equipment maker, has supported legislation of this type. Others may dismiss this company as they just make tractors. However, if you were to talk to them, you would learn that the tractor of tomorrow, indeed of today, has a lot of high-tech equipment on board that, as it drives through the fields, gathers information on plant conditions and soil conditions and moisture content and so forth.

And that is incredibly valuable information to a farming operation. But to really use that information, you need a broadband connection to send it from the tractor to, say, a plant specialist a hundred miles away. Without that broadband connection, it will take a very long time to transmit the data, which makes it a lot less useful.

One economist, Robert Crandall of the Brookings Institute, has estimated that accelerated deployment of broadband will generate up to $500 billion in economic growth annually. Talk about an economic stimulus. I think we would all be delighted to have that happen, and I believe we should take steps to allow it to do so. This legislation is an important step in that direction.

And one important reason for us to encourage more broadband investment is international competitiveness. A number of other countries, like Japan and China, are now making much greater investments than the United States in optical fiber and other advanced telecommunications infrastructure. Japan is now the world's largest purchaser of fiber, much of which is going to deploy fiber-to-the-home. In 1 month last year, they wired more homes with fiber than we did in the entire year.

And although China has been playing catch up on building out their Internet backbone, they are doing so at a very fast pace and could soon overtake Japan as the world's biggest fiber market.

It is also happening in Europe. The Government of Sweden has dedicated

$800 million for broadband deployment in rural areas of the country, while they have already wired much of Stockholm with fiber-to-the-home. Last year, France announced that it would invest $1.5 billion on broadband infrastructure over the next 5 years.

I believe it is extremely important that the United States not fall behind in telecom and Internet technology, and a financial incentive of the type provided by this legislation will help ensure that we do not.

Let me briefly describe the specifics of the bill. As I said earlier, it provides 50 percent expensing for investments in rural and underserved areas of ''current generation'' broadband technologies, which are defined as those delivering at least 1.0 megabits per second of information downstream to the subscriber, and at least 128 kilobits per second upstream from the subscriber.

It provides 100 percent expensing for investments in ''next generation'' broadband technologies, which are defined as those delivering at least 22 megabits per second of information downstream to the subscriber, and at least 5 megabits per second upstream from the subscriber. It is technology neutral, it makes no difference if you are using as your medium copper wire, coaxial cable, optical fiber, terrestrial wireless, satellite or something else. If you deliver the threshold speeds, you are eligible for the benefit. And it sunsets in 5 years. The intent is not to provide a permanent benefit to the telecom sector, but rather to provide incentive to build out new infrastructure within a short time period.

And so that my colleagues and the public can read the specifics themselves, I ask unanimous consent that a copy of the bill be printed in the RECORD.

Let me just conclude by saying that I believe this is important legislation, and I hope that my colleagues will join in supporting it. I look forward to working with my home State colleague, Senator BAUCUS, and also Senator ROCKEFELLER and others to ensure that we push it through the Congress this year and send it to the President for signature.

Mr. BAUCUS. Mr. President, I am pleased to join my friend and fellow Montanan, Senator BURNS, in introducing the Broadband Expensing Act. Montana has led the way in the innovation of a tax incentive to promote broadband deployment to rural and underserved areas. And today, Senator BURNS and I are continuing to work together to provide Montana and the Nation with the tools it needs to stay on the cutting edge of communication technology.

My top goal for my State and the country is to help boost our economy and create more good paying jobs. This bill will help to do that.

The Broadband Expensing Act will allow businesses to depreciate their capital investment quicker, allowing them to deploy next generation networks at a faster pace. In short, the benefits are two-fold: businesses will benefit by receiving an incentive to roll out their network into rural areas. And customers will benefit by being able to send and receive massive amounts of data much faster than before.

The ability to communicate clearly, quickly and effectively is vital to a healthy economy. The Internet has been an incredible innovation, but its abilities are limited by an outdated infrastructure. Much of the network still relies on the same copper wire that Alexander Graham Bell used when he first designed our telephone system.

It is time to update that infrastructure to soup up the copper wire, to soup up coaxial cable, to move to optical technologies, and to develop new wireless products.

As many in the industry have told me, our communications network is slowly being upgraded all across the country—but often not in rural America. The main reason is cost. Companies are in business to make money, and if their costs are too high, they are reluctant to make the investment. But rural Americans deserve the same kind of high-speed service that urban Americans have access to.

Long ago we determined that rural Americans deserved the same basic services electricity, telephone and transportation—and we found creative ways to provide them with those services. Now it is time to ensure they have access to broadband as well.

In addition to helping us bring ''current generation'' broadband to rural and underserved areas, this bill that Senator BURNS and I have introduced will help us move to the ''next generation'' of broadband state-of-the-art systems that carry much greater amounts of data than copper wire and coaxial cable.

It is fitting that we introduce this bill today, as we are beginning discussions about an economic stimulus package. Boosting broadband service across the country is one more way to boost the economy and bring more jobs to our rural areas. Broadband will help ensure that our productivity remains high and that our citizens receive the best services modern telecommunications have to offer.

The potentials of broadband are limitless. From telemedicine to distance learning to video conferencing. In rural areas, we will find even more ways to use broadband, such as tele-veterinary services, remote monitoring of crops or on-line livestock auctions.

And I want to echo Senator BURNS concerns about international competitiveness. A recent study by the Organization for Economic Cooperation and Development found that the United States is now sixth in the world in broadband penetration. Two years ago, we were third. Last year, we were fourth. Now we are sixth, behind South Korea, Canada, Sweden, the Netherlands and Belgium.

We need to move back up the ladder. The United States invented the Internet. We invented the computer. We invented optical fiber. We invented many of the devices upon which the Internet depends. So we can't allow ourselves to fall behind in high-speed Internet service.

I also want to thank my colleague from West Virginia, Senator ROCKEFELLER, for his important work on the broadband tax credit legislation. I look forward to his reintroduction of that important bill and working together to provide Americans with broadband incentives.

Let me conclude by asking my Senate colleagues for their support of this bill that will stimulate broadband investment around the country. Every single American, urban or rural, rich or poor, young or old, deserve access to this new and exciting technology. I look forward to working with Senator BURNS and others to get this legislation enacted this year.

Mr. HATCH. Mr. President, I am pleased to rise today to join my colleagues from Montana in introducing the Broadband Expensing Act. If enacted, this legislation would bring economic growth to rural America, and it would help bring community benefits to rural and underserved areas of the Nation, including many in my home State of Utah.

I think it is striking that most Americans still rely on very outdated telecommunications infrastructure, the same copper wire we have used for decades, for their connection to one of the most important communications innovations in history, the Internet.

This is true in my home State of Utah, where the telecommunications infrastructure has not kept pace with the growing number of high-tech firms, manufacturing companies, and very sophisticated workers. Our major metropolitan areas, of course, have access to high-speed Internet services. But the connections to most homes and many businesses have not been upgraded, meaning that data signals hit a bottleneck there and slow down dramatically.

Consequently, many wonderful Internet applications, such as video conferencing, large file sharing, telemedicine, and distance learning, are ineffective or unavailable. And this is certainly true outside the metropolitan areas of Utah, in the rural communities that are found all over the State.

One way to help overcome this situation is to offer a financial incentive to encourage broadband providers to extend their networks to underserved areas of the Nation. That is what this legislation would do. It would help broadband providers reduce the cost of new infrastructure. But it is important to note that they will only receive the benefit of this incentive if they actually build new infrastructure and actually provide broadband service. No new broadband network, no tax benefit. That is eminently fair and reasonable, and it is good tax and public policy.

This is a two-tiered tax incentive. Companies that bring new ''current generation broadband'' to rural and underserved areas would be able to expense, or write-off, half of their investment immediately. Companies that bring new ''next generation broadband'' to those rural or underserved areas, or to other residential areas, would get to write off immediately 100 percent of their investment.

What is ''current generation'' broadband? It is essentially cable modem, digital subscriber line, DSL, or wireless broadband service, and is generally five to ten times faster than a dial-up connection. Current generation broadband brings photo images to a computer screen very quickly, and allows the use of simple video applications. ''Next generation'' broadband, on the other hand, is hundreds of times faster than dial-up and allows television-quality images to flow from one computer to another.

In many rural areas of the Nation, dial-up service is all that is available. Current generation broadband is available in many urban and suburban communities, but still generally unavailable in rural areas. And next-generation broadband is only in its infant stages, available to fewer than 100,000 homes in the United States.

This legislation is well crafted to meet the broadband needs of the Nation. It would help spur current generation broadband deployment in areas of the Nation still relying on dial-up, but it would not provide tax incentives to areas that already have a broadband connection. And it would help spur the deployment of next generation broadband everywhere, since that level of service is available to very few people in the country today.

I look forward to taking a leading role in helping move this bill through the Finance Committee and the Senate. I am confident that this legislation will make an important contribution to the construction of a 21st century telecommunications network that will serve the Nation well.

By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. DORGAN, and Mrs. HUTCHISON):

S. 161. A bill to amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise today to introduce the Children's Protection from Violent Programming Act. This legislation is of vital importance to our young children and their families.

The purpose of the bill is to require the Federal Communications Commission to consider whether to institute a ''Safe Harbor'' during which gratuitously violent television programming could not be televised to America's children. Today, I am joined in this effort by several of my colleagues, Senators HUTCHISON, INOUYE, and DORGAN, who are all original cosponsors of the legislation. I have sponsored similar legislation in each of the last five Congresses and this same legislation was reported out of the Senate Commerce Committee during the 106th Congress by a vote of 17 to 1. I feel compelled to reintroduce this bill again to stem the tide of violent programming that is becoming more and more prevalent in our society. Unfortunately, violence in the media begets violence by our youths and we have an obligation to address this societal problem head on. We know commercial interests will not, so we must act.

By Mr. MCCAIN (for himself and Mr. LIEBERMAN):

S.J. Res. 3. A joint resolution expressing the sense of Congress with respect to human rights in Central Asia; to the Committee on Foreign Relations.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the text of the Joint Resolution expressing the sense of the Congress with respect to human rights in Central Asia, be printed in the RECORD.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES. 3

Whereas the Central Asian nations of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan provided the United States with important assistance in the war in Afghanistan, from military basing and overflight rights to the facilitation of humanitarian relief;

Whereas America's victory over the Taliban in turn provided important benefits to the Central Asian nations, removing a regime that threatened their security, and significantly weakening the Islamic Movement of Uzbekistan, a terrorist organization that had previously staged armed raids from Afghanistan into the region;

Whereas, the United States has consistently urged the nations of Central Asia to open their political systems and economies and to respect human rights, both before and since the attacks of September 11, 2001;

Whereas Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are members of the United Nations and the Organization for Security and Cooperation in Europe, both of which confer a range of human rights obligations on their members;

Whereas, according to the State Department Country Reports on Human Rights Practices, the Government of Kazakhstan harasses and monitors independent media and human rights activists, restricts freedom of association and opposition political activity, and allows security forces to commit extrajudicial executions, torture, and arbitrary detention with impunity;

Whereas, according to the Department of State, the Government of the Kyrgyz Republic engages in arbitrary arrest and detention, restricts the activities of political opposition figures, religious organizations deemed ''extremist,'' human rights activists, and non-governmental organizations, and discriminates against ethnic minorities;

Whereas, according to the Department of State, the Government of Tajikistan remains authoritarian, curtailing freedoms of speech, assembly, and association, with security forces committing extrajudicial executions, kidnappings, disappearances, and torture;

Whereas, according to the Department of State, Turkmenistan is a Soviet-style one-party state centered around the glorification of its president, which engages in serious human rights abuses, including arbitrary arrest and detention, severe restrictions of personal privacy, repression of political opposition, and restrictions on freedom of speech and nongovernmental activity;

Whereas, according to the Department of State, the government of Uzbekistan continues to commit serious human rights abuses, including arbitrary arrest, detention and torture in custody, particularly of Muslims who practice their religion outside state controls, the severe restriction of freedom of speech, the press, religion, independent political activity and nongovernmental organizations, and detains over 7,000 people for political or religious reasons;

Whereas the United States Commission on International Religious Freedom has expressed concern about religious persecution in the region, recommending that Turkmenistan be named a Country of Particular Concern under the International Religious Freedom Act of 1998, and that Uzbekistan be placed on a special ''Watch List'';

Whereas, by continuing to suppress human rights and to deny citizens peaceful, democratic means of expressing their convictions, the nations of Central Asia risk fueling popular support for violent and extremist movements, thus undermining the goals of the war on terrorism;

Whereas President Bush has made the defense of ''human dignity, the rule of law, limits on the power of the state, respect for women and private property and free speech and equal justice and religious tolerance'' strategic goals of United States foreign policy in the Islamic world, arguing that ''a truly strong nation will permit legal avenues of dissent for all groups that pursue their aspirations without violence''; and

Whereas the Congress has expressed its desire to see deeper reform in Central Asia in past resolutions and other legislation, most recently conditioning assistance to Uzbekistan on its progress in meeting human rights and democracy commitments to the United States: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that—

(1) the governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan should accelerate democratic reforms and fulfill their human rights obligations including, where appropriate, by—

(A) releasing from prison all those jailed for peaceful political activism or the nonviolent expression of their political or religious beliefs;

(B) fully investigating any credible allegations of torture and prosecuting those responsible;

(C) permitting the free and unfettered functioning of independent media outlets, independent political parties, and nongovernmental organizations, whether officially registered or not;

(D) permitting the free exercise of religious beliefs and ceasing the persecution of members of religious groups and denominations not registered with the state;

(E) holding free, competitive, and fair elections; and

(F) making publicly available documentation of their revenues and punishing those engaged in official corruption;

(2) the President, the Secretary of State, and the Secretary of Defense should—

(A) continue to raise at the highest levels with the governments of the nations of Central Asia specific cases of political and religious persecution, and urge greater respect for human rights and democratic freedoms at every diplomatic opportunity;

(B) take progress in meeting the goals outlined in paragraph (1) into account when determining the level and frequency of United States diplomatic engagement with the governments of the Central Asian nations, the allocation of United States assistance, and the nature of United States military engagement with the countries of the region;

(C) ensure that the provisions of the foreign operations appropriations Acts are fully implemented to ensure that no United States assistance benefits security forces in Central Asia implicated in violations of human rights;

(D) follow the recommendations of the United States Commission on International Religious Freedom by designating Turkmenistan a Country of Particular Concern under the International Religious Freedom Act of 1998 and by making clear that Uzbekistan risks designation if conditions there do not improve;

(E) press the Government of Turkmenistan to respect the right of imprisoned opposition leader Boris Shikmuradov to due process and a fair trial and to release democratic activists and their family members from prison, and urge the Government of Russia not to extradite to Turkmenistan members of that country's political opposition;

(F) work with the Government of Kazakhstan to create a political climate free of intimidation and harassment, including releasing political prisoners and permitting the return of political exiles, most notably Akezan Kazegeldin, and to reduce official corruption, including by urging the Government of Kazakhstan to cooperate with the ongoing Department of Justice investigation; and

(G) support through United States assistance programs those individuals, nongovernmental organizations, and media outlets in Central Asia working to build more open societies, to support the victims of human rights abuses, and to expose official corruption; and

(3) increased levels of United States assistance to the governments of the Central Asian nations made possible by their cooperation in the war in Afghanistan can be sustained only if there is substantial and continuing progress towards meeting the goals outlined in paragraph (1).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 19—EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD INCREASE THE MAXIMUM INDIVIDUAL FEDERAL PELL GRANT AWARD TO $9,000 BY 2010.

Mr. FEINGOLD (for himself, Ms. COLLINS, and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 19

Whereas public investment in higher education yields a return of several dollars for each dollar invested;

Whereas higher education promotes economic opportunity and recipients of bachelor's degrees earn an average 75 percent per year more than those with high school diplomas and are also half as likely to be unemployed;

Whereas access to a college education has become a hallmark of American society, and is vital to upholding our belief in equality of opportunity;

Whereas for a generation, the Federal Pell Grant has served as an established and effective means of providing access to higher education;

Whereas over the past decade, the Federal Pell Grant has decreased by 20 percent in value and is now worth only 70 percent of what a Federal Pell Grant was worth in 1975;

Whereas grant aid as a portion of student aid has fallen significantly in the past 5 years;

Whereas in the past, grant aid constituted 55 percent of total aid awarded to college students and loans constituted just over 40 percent, but now grant aid constitutes 40 percent of total aid awarded and loans constitute nearly 60 percent;

Whereas the percentage of freshman attending public and private 4-year institutions of higher education from families with income below the national medium has fallen since 1981; and

Whereas in 2001, eligible Federal Pell Grant applicants grew by 8.3 percent in comparison with the projected growth rate of 2.5 percent, representing an increase in low-income students who now have access to college and causing a shortfall in funding for the Federal Pell Grant program: Now, therefore, be it

Resolved, That it is the sense of the Senate that Congress should increase the maximum individual Federal Pell Grant award to $9,000 by fiscal year 2010.

SENATE RESOLUTION 18—MAKING MAJORITY PARTY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 108TH CONGRESS

Mr. FRIST submitted the following resolution; which was submitted and read:

S. RES. 18

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the majority party's membership on the following standing committees for the 108th Congress, or until their successors are chosen:

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY: Mr. COCHRAN (Chairman), Mr. LUGAR, Mr. MCCONNELL, Mr. ROBERTS, Mr. FITZGERALD, Mr. CHAMBLISS, Mr. COLEMAN, Mr. CRAPO, Mr. TALENT, Mrs. DOLE, and Mr. GRASSLEY.

COMMITTEE ON APPROPRIATIONS: Mr. STEVENS (Chairman), Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. CRAIG, Mrs. HUTCHISON, Mr. DEWINE, and Mr. BROWNBACK.

COMMITTEE ON ARMED SERVICES: Mr. WARNER (Chairman), Mr. MCCAIN, Mr. INHOFE, Mr. ROBERTS, Mr. ALLARD, Mr. SESSIONS, Ms. COLLINS, Mr. ENSIGN, Mr. TALENT, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mrs. DOLE, and Mr. CORNYN.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS: Mr. SHELBY (Chairman), Mr. BENNETT, Mr. ALLARD, Mr. ENZI, Mr. HAGEL, Mr. SANTORUM, Mr. BUNNING, Mr. CRAPO, Mr. SUNUNU, Mrs. DOLE, and Mr. CHAFEE.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION: Mr. MCCAIN (Chairman), Mr. STEVENS, Mr. BURNS, Mr. LOTT, Mrs. HUTCHISON, Ms. SNOWE, Mr. BROWNBACK, Mr. SMITH, Mr. FITZGERALD, Mr. ENSIGN, Mr. ALLEN, and Mr. SUNUNU.

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