

S. 1162

At the request of Mrs. LINCOLN, the names of the Senator from New York (Mr. SCHUMER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Massachusetts (Mr. KERRY), the Senator from Florida (Mr. GRAHAM), the Senator from Montana (Mr. BAUCUS), the Senator from Maryland (Mr. SARBANES), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. LEAHY), the Senator from Nebraska (Mr. NELSON), the Senator from Florida (Mr. NELSON), the Senator from Michigan (Mr. LEVIN), the Senator from Delaware (Mr. CARPER), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Delaware (Mr. BIDEN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Washington (Ms. CANTWELL), the Senator from South Dakota (Mr. DASCHLE), the Senator from Michigan (Ms. STABENOW), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. CONRAD), the Senator from Ohio (Mr. VOINOVICH), the Senator from Hawaii (Mr. AKAKA), the Senator from North Dakota (Mr. DORGAN), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Wisconsin (Mr. KOHL), the Senator from California (Mrs. FEINSTEIN), the Senator from California (Mrs. BOXER) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1162

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1162, *supra*.

S. CON. RES. 44

At the request of Mr. AKAKA, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Con. Res. 44, a concurrent resolution recognizing the contributions of Asian Pacific Americans to our Nation.

S. RES. 118

At the request of Mrs. BOXER, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Jersey (Mr. CORZINE), the Senator from Arkansas (Mr. PRYOR) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 118, a resolution supporting the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II.

S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972

would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

AMENDMENT NO. 539

At the request of Mr. BUNNING, his name was added as a cosponsor of amendment No. 539 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

AMENDMENT NO. 841

At the request of Mr. DODD, his name was withdrawn as a cosponsor of amendment No. 841 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1168. A bill to amend title 23, United States Code, to establish a program to increase the use of recyclable material in the construction of Federal-aid highway; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise to introduce legislation that I believe will provide the necessary incentives to improve State efforts in the use of recycled materials in highway construction and maintenance. The use of recycled materials in highways is an established process in certain parts of the United States, with some States using recycled materials on a regular basis. These materials include fly ash, bottom ash, rubber products from old tires, and reprocessed concrete and asphalt pavements. Less commonly used recycled commodities include glass and plastic. The American Association of State Highway and Transportation Officials has recently approved specifications for the use of biomass, including small diameter timber, providing an additional avenue for use of recycled material. The list of accomplishments is impressive, but its application is limited. Many States could do much more with the use of recycled materials in their highway systems.

Challenges faced by States in the use of recycled material in highways are attributed to several factors. Some State Departments of Transportation are unaware of the different types of recycled materials that are available in today's construction industry. Others do not have the technical expertise to take advantage of the broad range of recycled materials and techniques. Some may not have developed the necessary procurement infrastructure to include the use of recycled materials in highway construction.

To assist States in overcoming these obstacles and to provide necessary incentives for the expansion of this economically and environmentally viable practice, I am introducing the Recycled Roads Act of 2003. The purpose of this bill is to authorize the Secretary

of Transportation to establish a recycled roads incentive grant program to encourage the use of recyclable material in the construction of Federal-aid highways by States and Indian tribes. The program will provide two types of grants. The first type, which is funded up to \$125,000 per year, will be for a State or Indian tribe to use in employing a coordinator to promote the use of recyclable material in Federal-aid highway construction. The second type, which is funded up to \$1,400,000 per year, will be for a State or Indian tribe to use to carry out projects and activities to promote the expanded use of recycled material in Federal-aid highway construction and maintenance. Total funding for both grants is \$123,525,000 per year.

The case for expanded use of recycled materials in road construction is clear. Dr. T. Taylor Eighmy, Director of the University of New Hampshire Recycled Materials Resource Center, from an article entitled "The Road to Reuse" published in the professional journal *Civil Engineering*, states the case well: "Why should we as a society continue to dispose of materials that may have inherent engineering value and suitable environmental properties and continue to rely on nonrenewable natural resources in constructing the U.S. infrastructure? Indeed, these materials may become increasingly deserving of consideration as we tackle deteriorating infrastructure problems in the United States. And the use of recycled materials in lieu of natural materials may provide additional environmental benefits through better performance and lower cost because there would be less need to mine, process, and transport traditional materials.

"Applications for recycled materials within the highway environment include both bound and unbound uses: asphalt pavements, portland cement concrete pavement, granular bases and subbases, stabilized bases, embankments, structural fills, flowable fills, soil cover and erosion control, and appurtenances. Materials such as reclaimed asphalt pavement, RAP, are widely recycled using both in-place and off-site recycling methods. More than 45 States use RAP. The National Asphalt Paving Association reported in April 2000 that RAP has one of the highest recycling rates in the United States—close to 80 percent. About 73 million tons are recycled each year, saving the taxpayers about \$300 million annually."

The example of RAP is one of our best success stories in the use of recycled materials in roads. However, there is much more that can be done. As Dr. Eighmy explains, ". . . the number of states that use recycled materials varies significantly, as do the approaches states take in conducting beneficial use determinations, particularly on less traditional materials. There is a general sense that states with higher industrial activities use more of the resulting by-products. . . . There also appears to be a relation between a state's

commitment to recycling and the maturity of the beneficial use program in that state.”

The Federal Highway Administration produced a policy on recycled materials in February of 2002, which strongly encourages the use of existing recyclable materials in highway construction and maintenance. As stated in the policy, “Recycling presents environmental opportunities and challenges, which, when appropriately addressed, can maximize the benefits of reuse. The use of most recycled materials poses no threat or danger to the air, soil, or water. Furthermore, careful design, engineering and application of recycled materials can reduce or eliminate the need to search for and extract new, virgin materials from the land.

“The engineering feasibility of using recycled materials has been demonstrated in research, field studies, experimental projects and long-term performance testing and analysis. Significant advances in technology over the past decade have increased the types of recycled materials in use and the range of their applications. When appropriately used, recycled materials can effectively and safely reduce cost, save time, offer equal or in some cases, significant improvement to performance qualities, and provide long-term environmental benefits.”

The Federal Highway Administration policy is supported by both science and a common sense approach to the needs of building and maintaining our national highway system. This bill provides the necessary incentives to expand these beneficial recycling practices, and increase the associated environmental and engineering impacts.

In addition, this legislation was developed in consultation with several stakeholders from the Federal and state governments, and non-governmental organizations. The State of New Mexico, and the non-profit organizations Environmental Defense and the Surface Transportation Policy Project have provided letters expressing their support for this legislation.

I ask all Senators to support the Recycled Roads Act of 2003. I look forward to working with the Chairman of the Environment and Public Works Committee, Senator INHOFE, and Senator JEFFORDS, the ranking member, to incorporate his bill into the full 6-year reauthorization of the transportation bill. I would also like to thank Jeff Steinborn from my office in Las Cruces, New Mexico for his diligent work in developing the initial concept for this legislation.

I ask unanimous consent that the article from September 2001 professional society journal Civil Engineering entitled “The Road to Reuse” by Dr. T. Taylor Eighmy, the February 2002 Federal Highway Administration policy on recycled materials, and letters of support from the State of New Mexico, Environmental Defense, and the Surface Transportation Policy Project be printed in the RECORD. I also 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 Civil Engineering, Sept. 2001]

THE ROAD TO REUSE

(By T. Taylor Eighmy and Bryan J. Magee)

Why should we as a society continue to dispose of materials that may have inherent engineering value and suitable environmental properties and continue to rely on nonrenewable natural resources in constructing the U.S. infrastructure? Shouldn't we be making a concerted effort to use recycled materials as substitutes for natural aggregates or materials in the construction of highway infrastructure? Indeed, these materials may become increasingly deserving of consideration as we tackle deteriorating infrastructure problems in the United States. And the use of recycled materials in lieu of natural materials may provide additional environmental benefits through better performance and lower cost because there would be less need to mine, process, and transport traditional materials.

There are many types of wastes and by-product materials with potential uses in the highway environment. Ground recycled asphalt pavement, crushed reclaimed concrete, foundry sands, coal bottom ash, blast furnace slags, nonferrous slags, steel slags, quarry by-products, shredded tires, and glass cullet can all serve as aggregate substitutes. Cement kiln dusts, silica fume, ground-granulated blast furnace slag, class F coal fly ash, and class C coal fly ash can serve as alternative cementitious materials. Ground recycled asphalt pavement, roofing shingle scraps, and ground rubber can serve as sources of asphalt cement or asphalt modifiers. And coal combustion by-products, wood ash, sludge ash, composted biomass, and ground wood wastes can serve as soil amendments, soil cover, mulch, and erosion control materials.

Applications for recycled materials within the highway environment include both bound and unbound uses: asphalt pavement, portland cement concrete pavement, granular bases and subbases, stabilized bases, embankments, structural fills, flowable fills, soil cover and erosion control, and appurtenances. Materials such as reclaimed asphalt pavement (RAP) are widely recycled using both in-place and off-site recycling methods. More than 45 states use RAP. The National Asphalt Paving Association reported in April 2000 that RAP has one of the highest recycling rates in the United States—close to 80 percent. About 73 million tons (66 million Mg) are recycled each year, saving taxpayers almost \$300 million annually.

A recent, but incomplete, compilation of materials recycled in the highway environment in the United States shows that other materials are recycled annually at reasonable rates. These annual usage and recycling rates are worth noting: blast furnace slag—24 million tons (12.6 million Mg), 90 percent recycling rate; coal fly ash—16 million tons (14.6 million Mg), 27 percent; coal bottom ash—4.8 million tons (4.4 million Mg), 30 percent; coal boiler slag—2.3 million tons (2.1 million Mg), 91 percent; current kiln dust and lime kiln dust—9.1 million tons (8.3 million Mg), 31 percent; and steel slag—8.3 million tons (7.5 million Mg), percentage unknown. However, the number of states that use recycled materials varies significantly, as do the approaches states take in conducting beneficial use determinations, particularly on less traditional materials. There is a general sense that states with higher in-

dustrial activity use more of the resulting by-products—foundry sands and slags, for example. There also appears to be a relation between a state's commitment to recycling and the maturity of the beneficial use program in that state.

A number of European countries have routinely used recycled materials since the 1970s with a high degree of success. What is remarkable about the European story is the recycling rate of materials used (material used/material produced) in the highway environment with rates of 100 percent frequently noted. The Netherlands, a populous country with more limited aggregate resources and a high degree of industrialization and interest in land reclamation, is the best example. The annual reported totals of metric tons used, together with the recycling rates, are as follows: steel slag—0.5 million, 100 percent; blast furnace slag—1.2 million, 100 percent; coal bottom ash—0.08 million, 100 percent; coal fly ash—0.85 million, 100 percent; construction and demolition aggregates—9.2 million, 100 percent; municipal solid waste combustion bottom ash—0.8 million, 100 percent; and RAP—10.7 million, 100 percent.

Data from a variety of sources suggest potential sources of recycled materials for use in the highway environment. In their paper “Utilization of Waste Materials in Civil Engineering,” R.J. Collins and S.K. Ciesielski cited four major sources of waste and by-product materials for highway use: agriculture (2,100 million tons [1,905 million Mg] per year), domestic (200 million tons [181 million Mg] per year) industrial (400 million tons [363 million Mg] per year), and mineral (1,800 million tons [1,633 million Mg] per year). Combined, these account for about 4.5 billion tons per year.

Recent data from the Federal Highway Administration (FHWA) indicate that in 1997 there were almost 4 million mi (6.4 million km) of roads in the United States—4 percent under federal jurisdiction, 21 percent under state jurisdiction, and 75 percent under local jurisdiction. Data from 1992 on material uses in the highway environment from the National Research Council show that the construction, rehabilitation, and maintenance of U.S. highways require about 350 million tons (318 million Mg) of natural and manufactured materials, including 20 million tons (18 million Mg) per year of asphalt, 10 million tons (9 million Mg) per year of portland cement, and 320 million tons (290 million Mg) per year of natural aggregates, paving mixtures, and synthetic surfacing and coating materials. It is interesting to contrast these numbers with the data presented on waste and by-product production. Undoubtedly, these numbers have increased.

ASCE's 2001 Report Card for America's Infrastructure indicates that one-third of the nation's roads are in poor or mediocre condition, costing American drivers an estimated \$5.8 billion and contributing to as many as 13,800 highway fatalities each year. Additionally, the assessment quotes FHWA findings that 29 percent of the nation's bridges are structurally deficient or functionally obsolete and its estimate that eliminating all bridge deficiencies would cost \$10.6 billion over the course of 20 years. There is a critical need for a significant investment of money and material to help alleviate these conditions and for changes in transportation behavior, transportation investment, and the application of innovative technologies. How much of this necessary rehabilitation can make appropriate use—both economically and from long-term engineering and environmental performance perspectives—of the materials already present in pavements, base courses, subbases, embankments, bridge decks, and bridge abutments? What other waste or by-product material might be used?

The 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) gave high priority to research on recycling. Largely as a result of this focus, the FHWA and the National Cooperative Highway Research Program (NCHRP) sponsored several projects related to recycling, all of them national in scope. Other federal agencies have developed guidelines or programs that in some way relate to the use of recycled materials. For example, the publication *User Guidelines for Waste and By-Product Materials in Pavement Construction* was developed to assist those who have an interest in using or increasing their understanding of the types of waste and by-product materials that may be recovered and used in pavement construction applications. By documenting the potential use of 19 recycled materials in six construction applications, these guidelines, which were produced by the FHWA and published in 1997, are intended to describe the nature of each material, suggest sources for obtaining additional information, and outline the issues that need to be evaluated when considering the use of a particular material. The guidelines are also intended to provide general information on engineering evaluation requirements, environmental issues, and economic considerations in determining the suitability of particular recovered materials in pavement applications. (An electronic version of the guidelines is available at the Web site of the Recycled Materials Resource Center [www.rmrc.unh.edu/Partners/UserGuide/begin.htm].)

Funded by the NCHRP and completed in 1998, the Recycled Materials Information Database was created as a tool that can be used to review and store data on the properties and applications of recycled material and on testing procedures. Reference information is also included. With information on 21 materials, the database is divided into nine main categories and provides the user with both general and detailed engineering and environmental information on each material. Recommended laboratory engineering tests that can be used to assess the suitability of each waste and recycled material for transportation applications are included, along with recommendations for monitoring in-field trials. (Copies of the database may be downloaded from the Recycled Materials Resource Center Web site [www.rmrc.unh.edu/Resources/UsefulDocuments&Programs/NCHRP/NCHRP.asp].)

The Framework for Evaluating Use of Recycled Materials in the Highway Environment was recently published by the FHWA to establish a logical and hierarchical evaluation process that all states can use either to develop a beneficial use determination process or to refine an existing process of this type. The purpose of this document is to help reduce barriers to the use of recycled materials and to facilitate the migration of successful practices across state boundaries. Additionally, because the management and regulation of recycled materials use in the highway environment are jurisdictionally the responsibility of a state's department of transportation (DOT) and its environmental protection agency (EPA), a major goal was to work with state DOTs and EPAs to develop a consensus-based approach that would encourage the two agencies to work together in the evaluation process. The process uses a series of stages that can each lead to approval or a beneficial use application from both an engineering and an environmental perspective. It comprises issue definition, data evaluation, laboratory testing, and field tests. The project used an expert technical group to help develop the framework. DOTs and EPAs from Florida, Minnesota, New Hampshire, New Jersey, and New York were

involved. (An electronic version of the guidelines is available on the Web site of the Recycled Materials Resource Center [www.rmrc.unh.edu/Partners/Framework/Start/start.html].)

The report *Environmental Impact of Construction and Repair Materials on Surface and Ground Waters* (NCHRP 25-9) was prepared by the NCHRP after determining whether commonly used construction and repair materials might affect—through the persistence of any toxic leachates—the quality of surface water or groundwater adjacent to highways. A number of widely used waste and by-product materials were included in this evaluation. By developing a model that can be applied to any medium through which the leachates might pass, the report provides users with a tool capable of predicting the potential environmental harm of various waste and by-product materials. (Copies of the report can be obtained from the Transportation Research Board's bookstore [<http://nationalacademies.org/trb/bookstore/>] by searching book code NR448.)

Established in 1998 in close coordination with the FHWA's Pavement Management Coordination Group, the Recycled Materials Resource Center (RMRC) works on the national level to promote the appropriate use of recycled materials in the highways environment. The RMRC forms part of the Environmental Research Group at the University of New Hampshire. It has a unique role in the growing application of recycled materials to highway construction—namely to serve as a catalyst to reduce barriers to the appropriate use of these materials. The center is a culmination of a number of diverse but integrated efforts on the part of the FHWA, other federal and state agencies, and academia to provide a cohesive approach to the complex engineering and environmental issues surrounding the use of recycled materials. The RMRC focuses on both research and outreach activities in carrying out its mission, and its principal clients are state DOTs and EPAs.

In terms of research, the RMRC channels approximately half of its overall budget to a diverse range of projects related to recycling. At present 2 projects have been completed and 11 are in progress nationwide at a number of academic institutions and consulting companies. In addition, with the request for proposals issued by the center in February, three are slated to commence in September. The projects address a range of engineering and environmental issues related to recycling, among them the mitigation of alkali silicate reactions in recycled concrete; environmental weathering of granular waste materials; concrete mixtures with inclusions to improve the sound-absorbing capacity of portland cement concrete pavements; and the development of a risk analysis framework for the beneficial use of secondary materials. Attention is also given to leaching from granular materials used in highway construction during intermittent wetting; the development and preparation of specifications for recycled materials in transportation applications; the determination of the number of revolutions needed for cold-in-place Superpave mixture design using the sequential gyratory compactor; the development of a rational and practical mix design system for full depth reclamation; the fatigue durability of stabilized recycled aggregate base course containing coal fly ash and waste-plastic strip reinforcement; and the development of lightweight synthetic aggregate from coal fly ash and waste plastics.

The RMRC orchestrates numerous activities, the principal and most accessible of which is its Web site (www.rmrc.unh.edu). The site provides a variety of tools, includ-

ing a client registration feature; an information request feature; virtual demonstration sites; updates on all RMRC-funded research projects; numerous documents and programs; links to pertinent specifications, state DOT programs, literature search engines, and national and international entities; lists of scheduled events; information on funding opportunities; and access to libraries and databases. In addition the center sends out a quarterly electronic newsletter to its clients, keeping them abreast of ongoing and upcoming events related to recycling.

Of particular interest is the center's first specification to be adopted by the American Association of State Highway and Transportation Officials (AASHTO). In December 2000 AASHTO voted to adopt "Glass Cullet Use for Soil Aggregate Base Course" as a new national specification (M-318-01). While currently recognized as a national specification, the document will first appear in the 21st edition of the AASHTO specifications, which is slated for publication this year. This recycling specification was developed by Warren Chesner of Chesner Engineering, in Commack, New York, in conjunction with the AASHTO subcommittee on materials as part of a research project funded by the RMRC. The project is looking at the properties of selected recycled materials and is developing—with the assistance of a technical advisory group made up of representatives of 15 state DOTs—specifications in an AASHTO format for the use of these materials in highway construction.

An upcoming outreach event of note is the international conference *Beneficial Use of Recycled Materials in Transportation Applications*, which the center is helping to organize. All told, 163 abstracts have been submitted from engineers and researchers from 23 different countries. The event will be held in Washington, DC, November 13-15 (see [www.rmrc.unh.edu/2001Conf/overview.asp]).

In September 1999 an FHWA delegation visited Sweden, Denmark, Germany, the Netherlands, and France to review and document innovative policies, programs, and techniques that would help to reduce barriers to the use of recycled materials in U.S. highways. The delegation met with more than 100 representatives from transportation and environment ministries, research organizations, contractors, and material producers involved with recycled materials in those countries. The U.S. delegation discerned a number of factors that have played a role in the success of recycling on highways in Europe, particularly in the Netherlands. The factors fall under the general concept of sustainability within the highway environment. The major components of the sustainability initiatives are the three Es: economics, engineering, and environment. (The final report is available online at [www.international.fhwa.dot.gov/Pdfs/recycolor.pdf].)

As a follow-up to the European visit, a workshop—*Partnerships for Sustainability: A New Approach to Highway Materials*—was developed to share European advances in recycling in the highway environment with a targeted audience of state DOT materials engineers, state DOT environmental staff members, and state EPA staff members who work on beneficial use. Fifteen states were invited to send representatives to the workshop, and more than 100 people attended. The goals were to showcase recent developments, introduce the Dutch sustainability concept, and encourage state agency personnel to work together on all aspects of using recycled materials on highways. (The workshop is highlighted on the RMRC Web page [www.rmrc.unh.edu/partner.asp], and the final report can be accessed at [www.rmrc.unh.edu/Partners/finalreport.asp].)

The FHWA has established a team to provide leadership, direction, and technical guidance to the transportation community to promote the use of recycled materials in highway environments and to provide technical support and assistance. The team is preparing a white paper that will set forth priority initiatives for recycling, and it is forming partnerships with AASHTO's subcommittees on materials and construction, with the RMRC, and with industry. Members of the team—their FHWA division given in parentheses—include Jason Harrington and Michael Rafalowski (Infrastructure Core Business Unit), Connie Hill (Planning and Environment Core Business Unit), Terry Mitchell and Jack Youtcheff (Research and Development Support Business Unit), Michael Smith (Southern Resource Center), Walter Waidlich (New Hampshire Division), Bryan Cawley (North Dakota Division), and Jim Travis (Texas Division).

A number of state DOTs have established recycling coordinator positions. These positions frequently figure prominently in technology transfer, research coordination, and informational outreach. The DOTs of California, Massachusetts, North Carolina, Pennsylvania, and Texas all have active programs.

MASSHIGHWAY

Over the past few years, the Massachusetts DOT, MassHighway, has made significant progress on the recycling front. Steps have been taken throughout the department to increase the use of waste and recycled materials in construction projects and everyday activities; to focus on recycled, remanufactured, and environmentally beneficial materials in procurement decisions for offices, stockrooms, facilities, and construction sites; and to promote the recycling of various waste streams. Recycling and environmentally beneficial procurement are becoming part of the routine way of doing business at MassHighway. Although highway performance, safety, and cost are of primary importance, as long as recycled and environmentally beneficial materials and products can fill this bill, they will be considered comparable, if not superior, to virgin alternatives.

Recent projects in Massachusetts include the procurement of recycled antifreeze, refined oils, and safety vests manufactured from soft drink bottles that are fully recycled; the acceptance of specifications allowing for the use of recycled plastic offset blocks as a substitute for pressure-treated lumber blocks; and the commencement of a research project to investigate the use of tire shreds beneath a roadway embankment. In addition, there are plans to set up trial and demonstration projects involving bio-based lubricants, recycled street sweepings, and noise barriers made of recycled plastic.

In 1999 alone, MassHighway was able to recycle more than 10,000 tons (9,000 Mg) of waste, use more than 138,000 tons (125,000 Mg) of reclaimed or recycled materials in construction projects, and spend more than \$33 million on materials and products that had a high recycled content or were environmentally beneficial. There is still much to be done. MassHighway will continue to evaluate its many procurement procedures and specifications to remove unnecessary barriers and find new applications for recycled materials and materials that are environmentally beneficial. It will also continue to examine its construction and maintenance operations to find areas where waste can be reduced. Additionally, it will continue to work in coordination with local, state, and national environmental and public works entities to share its experiences and to learn more about the use of recycled and environmentally bene-

cial materials in highway and roadway construction.

PENNSYLVANIA DOT

PennDOT has developed a strategic recycling program (SRP) as a tool for systematically identifying, evaluating, and implementing opportunities to use recycled materials in transportation and civil engineering work throughout the state. The ultimate objective of the SRP is to realize economic savings and environmental benefits for both PennDOT and the state by recycling, limiting pollution, and continuing various other environmental initiatives.

Five key areas have been targeted by the state to help PennDOT achieve and sustain its mission to increase the use of recycled materials:

(1) Research: Continue to evaluate the existing uses of recycled materials and products and conduct research into new uses of recycled materials in transportation and civil engineering work.

(2) Specifications: Develop and approve material and use specifications, bidding specifications, and guidelines for the use of recycled materials that confer significant environmental, engineering, or economic benefits.

(3) Project development: Identify, promote, and plan projects that use recycled materials that conform to approved or provisional specifications.

(4) Communication: Provide information via various media to PennDOT, government agencies, and the public on the performance and applicability of recycled materials in transportation and civil engineering work.

(5) Contract bidding: Evaluate construction contract legal bidding requirements and develop innovative ways to enable PennDOT to specify the use of recycled materials in transportation construction and maintenance projects.

NORTH CAROLINA DOT

Last year NCDOT recycled 2.4 million lb (1.1 million kg) of metal, 1 million lb (450,000 kg) of paper products, and more than 30,000 lb (14,000 kg) of glass and plastic as part of their daily operations. In addition to these efforts, the department continues to seek applications for recycled products in highway construction. Since 1989 the NCDOT has used more than 7 million tires, 50,000 tons (45,000 kg) of glass beads, and 14,000 tons (13,000 kg) of asphalt shingles.

Lyndo Tippet, the state's secretary of transportation, has indicated he will expand the department's environmental efforts. "As a native of rural North Carolina, I know firsthand the value of our state's natural resources," he said. "We must be proactive about finding opportunities that not only protect our environment but also improve it."

One such opportunity is the department's partnership with Habitat for Humanity of Wake County, which won an environmental excellence award from the FHWA this year. In this program, Habitat helps raze houses within the department's rights-of-way that are scheduled for demolition.

Prospective homeowners help demolish the houses, earning credit toward the construction of their new homes. Materials are then stored in Habitat's reuse center and sold to the general public at reduced prices. The department is currently working to develop partnerships with other Habitat chapters throughout the state.

Another initiative is a pilot project with Bion Technologies, of Clayton, North Carolina. Last year the company donated 900 lb (410 kg) of swine waste for use as an alternative to commercial fertilizer. NCDOT roadside environmental engineers are currently working with the company to monitor

the effectiveness of this product in test plots of wildflower beds along U.S. 117 south of Goldsboro to see if more widespread use is warranted.

"Our partnerships with Habitat for Humanity and Bion Technologies demonstrate to the public the positive effect that recycling has on our culture as well as our environment," said Tippet. "These efforts also prove that it is possible to have a quality transportation system and a beautiful environment at the same time."

TEXAS DOT

TxDOT's road to recycling initiative represents a mammoth endeavor to use recycled materials in road construction and maintenance projects. The goal of this initiative is to increase the use of recycled materials in road construction when they confer environmental benefits and economic or engineering advantages.

Since 1995 TxDOT has coordinated more than \$1 million worth of research to investigate the use of a broad array of recycled materials in road construction, including glass cullet, scrap tires, fly and bottom ash, crushed porcelain toilets, shredded brush, compost, roofing shingles, plastics, RAP, crushed concrete, and industrial wastes. The research has been equally broad in the scope of roadway construction applications studied and has examined road signs, roadway safety devices, embankments, asphalt and concrete pavements, soil erosion control, drainage, vertical moisture barriers, and road bases.

Information on the merits of recycled roadway materials has been disseminated around the world through information showcases, press releases, a video, a Web site, two conferences, and a yearlong publicity campaign.

Since the inception of its recycling program in 1994, TxDOT has spent more than \$506 million on "green" products and diverted more than 13 million tons (12 million Mg) of materials from landfills—a diversion equivalent to more than 1,300 lb (590 kg) for every man, woman, and child in Texas. These staggering numbers are for the most part directly attributable to the use of recycled materials in road construction applications.

As part of its continuing efforts to promote the use of materials recovered from solid waste, the U.S. EPA has developed the Comprehensive Procurement Guideline (CPG) program. The institutional purchase of recycled products by government ensures that the materials collected in recycling programs will be used again in the manufacture of new products. Congress authorizes the CPG program under section 6002 of the Resource Conservation and Recovery Act (RCRA). The CPG process designates products that are or can be made with recycled materials. At present for construction products, coal fly ash and ground granulated blast furnace slag are listed for cement and concrete materials, and coal fly ash and foundry sands are listed for flowable fill. Materials are also listed for transportation and landscaping categories. (Additional information is available at [www.epa.gov/cpg/].)

OTHER INITIATIVES

Established in the 1990s by the U.S. Department of Energy (DOE), the Industries for the Future Program creates partnerships linking industry, government, and supporting laboratories and institutions to accelerate technology research, development, and deployment. The DOE's Office of Industrial Technologies is implementing the program for nine energy- and waste-intensive industries, namely agriculture, aluminum, chemicals, forest products, glass, metal casting, mining, petroleum, and steel. The program's goal of increasing competitiveness and reducing energy consumption waste involves recycling

by-products from these industries. A recent conference hosted by the DOE and the Civil Engineering Research Foundation explored recycling opportunities for these industries and in formulating plans for the future looked at perceived barriers, market needs, and collaborative relationships. (For additional information about the Industries for the Future Program, see [www.oit.doe.gov/industries.shtml].)

Life-cycle analysis (LCA) has become increasingly common in civil engineering construction applications. Indeed, its use is being widely encouraged in addressing America's infrastructure problems. An excellent example of this application is the model BridgeLCC, developed by the National Institute for Standards and Technology for use evaluating high-performance bridges. BridgeLCC (see [www.bfrl.nist.gov/bridgelcc]) is geared toward helping design engineers estimate and compare the life-cycle costs of a new technology—for example, high-performance concrete or fiber-reinforced-polymer (FRP) composites—with those of a conventional technology made with conventional materials. The FHWA has instituted similar models for highway design (see [www.fhwa.dot.gov/resourcecenters/southern/msmith.htm]).

There is less experience here in the United States with the application of LCA in deciding whether to use recycled materials or traditional materials in highway work, and this is even more pronounced when environmental burdens or emissions are included in the model. Recent work by the Finnish National Road Administration has resulted in the development of a comprehensive LCA and inventory analysis program. In Finland the production and transport of materials produce the most significant environmental burdens; the activities that consume the most energy are the production of bituminous asphalt and cement and the crushing and transport of materials. The consumption of raw materials and the leaching behavior of recycled materials there were also regarded as being of great significance. A weighted environmental loading assessment for three scenarios (coal fly ash in subbase and stabilized subbase; crushed concrete in base and subbase; and blast furnace slags in base, subbase, and lower subbase) and a traditional construction scenario were conducted in the Finnish study. The use of blast furnace slag, crushed concrete, and coal fly ash in road bases was seen as imposing a lower total environmental loading than the use of coal fly ash in stabilized subbases or the use of traditional pavements using crushed rock.

Obviously, such analytical tools and case studies need to be developed and applied to scenarios here in the United States. However, the Finnish National Road Administration data suggest that in a broader sense there may be additional benefits to using recycled materials when life-cycle material costs are considered in conjunction with the harm to the environment caused by energy production and the processing and transport of materials.

In refining their strategic plans, state DOT may find it advantageous to consider the role of recycling. In addition, as studies are carried out on proposed transportation projects under the auspices of the National Environmental Policy Act, is it possible that credit might be given for the use of recycled materials, particularly if LCA shows that the materials convey environmental benefits?

The Netherlands probably best typifies the concept of sustainability, and it offers a suitable model for certain states and metropolitan areas here in the United States. The recycling or reuse of secondary materials with-

in the Dutch building industry is commonplace—more than 10 percent of all granular materials used in the building industry are recycled.

The Netherlands is an affluent country with high population densities and limited land resources. The public has elected not to set aside areas for landfills or aggregate mining. This has led to the practice of sustainable development within the building industry, as well as to a subset of that industry: the highway construction industry. The basic premise of the sustainability concept is that material cycles should be closed (recycling involving use, reuse, re-reuse, et cetera) so that there is less outright disposal and less consumption of non-renewable natural materials. A number of legislative initiatives, including the National Environmental Policy Plan, the Waste Materials Policy, the Soil Protection Policy, the Surface Minerals Policy, and the Construction Industry Policy Declaration, provide the underpinning for sustainable construction.

The Dutch have adopted a market philosophy that regards recycled materials as products rather than waste. This means that the product will exhibit a typical product life cycle in the marketplace. Recycled materials first undergo development before coming into widespread use and maturing. Government and private-sector publicity campaigns and policies support the market. This concept might prove applicable in the United States in states or geographic regions where population densities are high, natural aggregates are scarce, and sources of suitable recycled materials are plentiful.

The Dutch government provides clear and unequivocal engineering and environmental standards for all recycled materials. This is usually achieved through governmental research in support of the standards. Further, public or industry working groups (including contractors) work together to achieve these standards. The producers of recycled materials use certified quality assurance and quality control programs so that their goods can compete against natural materials. The policy is clear, as is the planning and implementation, which enables the producers and contractors to prepare for this new market. The government provides certain economic incentives, such as hefty landfill disposal taxes on materials that can be recycled and modest taxes on the use of natural aggregates. If these aspects are combined, then a mature recycling market can develop over time.

There is a clear need for partnerships linking the private sector, universities, research institutions, government bodies, environmental groups, and the public. This relates to the formulation and coordination of policy, the transfer of information, and making resources available for additional research and development (R&D).

The private sector can play a variety of roles. Those interested in having their by-products considered can make use of the document Framework for Evaluating Use of Recycled Materials in the Highway Environment so that they can work with state DOTs and EPAs to develop the necessary data for evaluation. Contractors can explore the use of recycled materials to help meet the requirements of performance bonds. Equipment manufacturers can also play a role by developing technologies that would make it possible to recycle materials on-site for pavements, bridges, and other civil infrastructure, thereby reducing transport costs and associated environmental burdens.

At the state level, it may be appropriate for the DOTs to consider recycling as stand-alone policy or as part and parcel of their strategic plans. PennDOT's SRP may be a starting point in efforts to systematically

find, evaluate, and apply recycled materials in transportation and civil engineering work (see [www.dot.state.pa.us/pennndot/bureaus/beq.nsf/srp?OpenPage]). State DOTs may wish to give credit to recycling strategies during the planning stage of transportation projects, as well as in analyzing alternatives and mitigation measures. In planning transportation projects states could develop checklists that ask questions about recycling choices or options for use, with the responses used in analyzing alternatives and evaluating secondary and cumulative effects. States could use information derived from LCAs as part of their benefits analysis and in information packages prepared for public hearings and for obtaining permits.

A more formal relationship between AASHTO and the Association of State and Territorial Solid Waste Management Officials is definitely worth exploring as this can help pave the way for relationships at the state level. State DOTs and EPAs might consider adopting beneficial use evaluation frameworks similar to successful ones already in place or to the generic one offered by the Framework for Evaluating Use of Recycled Materials in the Highway Environment.

A lowering of the barriers encountered in transferring technologies from one jurisdiction to another across state lines would be a great benefit. Fortunately, the Environmental Council of State (see [www.sso.org/ecos/]) has two programs related to reciprocity. The group called Interstate Technology Regulatory Cooperation (ITRC) is a state-led national coalition dedicated to achieving better environmental protection through the use of innovative technologies. The ITRC (www.itrcweb.org) is exploring general reciprocity arrangements involving 37 state members. Six states (California, Illinois, Massachusetts, New Jersey, Pennsylvania, and Virginia), under the Environmental Technology Acceptance and Reciprocity Partnership (e.TARP) are exploring reciprocity arrangements of a more formal type, including one for beneficial use determinations.

One recommendation that was strongly emphasized in the final report on the workshop Partnerships for Sustainability: A New Approach to Highway Materials Partnerships for Sustainability is that state DOTs establish recycling coordinator positions for the purposes of technology transfer, research coordination, and outreach.

At the federal level, partnerships linking the private sector, the FHWA, the U.S. EPA, the DOE, and other competent agencies are encouraged. Two obvious examples might be coordinating the U.S. EPA's CPG program with the DOE's Industries for the Future Program. Funneling beneficial use applications and adopted specifications to the CPG program also makes sense. There may be an opportunity to establish a leadership council that could coordinate communication and policy and improve intergovernmental approaches. Shared funding should be considered for lowering barriers between jurisdictions, demonstrating the use of innovative materials, and applying ICA analysis. A recent report on the role to be played by the National Science Foundation in meeting environmental science and engineering needs in the 21st century named industrial ecology (including product and process ICA) as a program needing enhancement. This topic should include recycling for infrastructure improvement.

Congress is considering a number of bills that could serve as vehicles in promoting recycling. The reauthorization of the next highway bill in 2003 provides an excellent opportunity to further promote appropriate recycling, partnerships, technology transfer,

and R&D. Making funds available to allow two or more states to carry out joint demonstration projects would go a long way toward reducing barriers. Congress can also examine the information recently provided by the U.S. EPA's Science Advisory Board on overcoming barriers to waste utilization (see [www.epa.gov/science/eccm06.pdf]). One of the board's most important recommendations—interpreting key definitions so that wastes could be beneficially used and not be inappropriately labeled as hazardous—would help with the confusion at the federal level about the need for a third category of by-product. Material that qualifies for inclusion in this category would not be labeled as solid waste or as hazardous waste; rather it would be suitable for beneficial reuse in an open market. The reauthorization of the RCRA may provide a suitable opportunity for this change.

FEDERAL HIGHWAY ADMINISTRATION
RECYCLED MATERIALS POLICY
ADMINISTRATOR'S MESSAGE

The National Highway System (NHS) is extensive, with over 160,000 miles of highway pavements and over 128,000 structures, built using large quantities of asphalt, concrete, steel, and aggregate, and smaller quantities of nonferrous metals, plastics, and other materials. Much of the system was constructed in the 1960's and 70's and is in need of major rehabilitation or total reconstruction; and much of the materials used to build that system can be recycled for use in the new construction. In order to carry out the mission of the FHWA, i.e., to "improve the quality of the Nation's highway system," the NHS must be properly preserved, maintained, rehabilitated, and when necessary, reconstructed. Maintenance of highways and associated structures is critical to our ability to provide the safest, most efficient roadway system possible, while simultaneously providing the greatest level of protection to the human and natural environment.

The same materials used to build the original highway system can be re-used to repair, reconstruct, and maintain them. Where appropriate, recycling of aggregates and other highway construction materials makes sound economic, environmental, and engineering sense. The economic benefits from the re-use of nonrenewable highway materials can provide a great boost to the highway industry. Recycling highway construction materials can be a cost-saving measure, freeing funds for additional highway construction, rehabilitation, preservation or maintenance.

Recycling presents environmental opportunities and challenges, which, when appropriately addressed, can maximize the benefits of re-use. The use of most recycled materials poses no threat or danger to the air, soil, or water. Furthermore, careful design, engineering and application of recycled materials can reduce or eliminate the need to search for and extract new, virgin materials from the land. The engineering feasibility of using recycled materials has been demonstrated in research, field studies, experimental projects and long-term performance testing and analysis. Significant advances in technology over the past decade have increased the types of recycled materials in use and the range of their applications. When appropriately used, recycled materials can effectively and safely reduce cost, save time, offer equal or, in some cases, significant improvement to performance qualities, and provide long-term environmental benefits.

FHWA has established agency goals for enhancing the human and natural environment, increasing mobility, raising productivity, improving safety throughout the

highway industry, and preserving national security. All of these goals are stated in our strategic plan, and we will ensure that the FHWA recycling policy and recycling programs are in alignment with those goals and underlying principles. This recycling policy statement is offered to advance the use of recycled materials in highway applications. It is intended to provide leadership, direction, and technical guidance to the transportation community for the use of recycling technology and materials in the highway environment. The FHWA policy is:

1. Recycling and reuse can offer engineering, economic and environmental benefits.
2. Recycled materials should get first consideration in materials selection.
3. Determination of the use of recycled materials should include an initial review of engineering and environmental suitability.
4. An assessment of economic benefits should follow in the selection process.
5. Restrictions that prohibit the use of recycled materials without technical basis should be removed from specifications.

FHWA has a longstanding position that any material used in highway or bridge construction, be it virgin or recycled, shall not adversely affect the performance, safety or the environment of the highway system. This remains a cornerstone in our policy statement. In order to foster innovation and future development we support research, field trials, and project demonstrations showcasing the findings.

We will do this with: People:
The FHWA Recycling Team.
Creation of a team of champions in our Division Offices that will be points of contact for recycling technology.

Partnering:
The Recycled Materials Resource Center.
Working with the AASHTO Subcommittee on Materials and Environment.

AASHTO Standing Committee on Highways recently passed a resolution on "Use of Recycled Materials". That document requests the establishment of a joint task force be created to provide the overall leadership for a coordinated national recycling program.

Coordination with State highway agency (SHA) Recycling Coordinators and state solid waste management regulators.

Interaction and coordination with industry partners.

Taking the lead for coordination of recycling activities and initiatives.

Promotion and Support:
Agency emphasis on recycling technology in the FHWA Strategic Plan.

Research, development, and technology transfer programs to further innovation.
Demonstration projects.

Increased training opportunities for FHWA and SHA staff.

Active promotion of recycling technology by providing needed specifications, best practices, design guidance, and material testing results to overcome barriers.

Assistance in review, evaluation, and advancement of emerging technology.

Promoting the concept of "sustainable" construction, i.e., construction designed for later recycling.

FREDERICK G. WRIGHT, Jr.,
Executive Director.

NEW MEXICO STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT,
Santa Fe, NM, May 6, 2003.
Attention: Eric Burman, Legislative Fellow.
Hon. JEFF BINGAMAN,
*U.S. Senate, Hart Senate Office Building,
Washington, DC.*

DEAR SENATOR BINGAMAN: My staff and I have reviewed the proposed "Recycled Roads Act of 2003" legislation and support it for the following reasons:

The legislation supports on-going work that the NMSHTD Recycling Task Force has been doing. It will enable us to complete additional research on issues related to the use of recycled materials on our roadways. Two current issues we are pursuing are: (1) The feasibility of rubberized pavement in roadway construction, and (2) The use of compost and/or mulch as an alternative to reseeded upon the completion of construction related projects.

Another important aspect of this legislation is that through its reporting requirements, it will enhance communication and cooperation between the NMSHTD (NMDOT) and other groups who are interested in the use of recycled materials in transportation facility maintenance and construction (e.g., state and tribal Departments of Transportation).

This legislation can provide the Department an opportunity to expand and accelerate progress in areas we currently pursue with limited resources.

Sincerely,

RHONDA G. FAUGHT,
Cabinet Secretary.

ENVIRONMENTAL DEFENSE,
Washington, DC, May 22, 2003.

Hon. JEFF BINGAMAN,
*U.S. Senate,
Washington, DC.*

DEAR SENATOR BINGAMAN: Environmental Defense is pleased to endorse the Recycled Roads Act, which promotes the use of nontoxic recycled materials as road construction materials. Using these recycled materials not only diverts them from landfills and incinerators, but also reduces energy use and pollution associated with manufacturing virgin materials for road construction, thus benefiting the environment and human health. It also provides economic benefits by enhancing markets for recycling of materials like glass and tires that have traditionally had limited recycling markets or viability. Because some potentially recyclable materials have toxic constituents, the bill's provisions requiring evaluation of risk (in conjunction with the Administrator of the Environmental Protection Agency) are a key aspect of the bill. As always, our endorsement is specific to the text of the bill as it stands at this point.

Thank you for taking a leadership role on this important issue.

Sincerely,

KAREN FLORINI,
Senior Attorney.

SURFACE TRANSPORTATION
POLICY PROJECT,
Washington, DC, May 22, 2003.

Hon. JEFF BINGAMAN,
*U.S. Senate, Hart Senate Office Building,
Washington, DC.*

DEAR SENATOR BINGAMAN: On behalf of the Surface Transportation Policy Project, I am writing to convey our support for your legislation, the "Recycle Roads Act of 2003."

The Surface Transportation Policy Project, among its goals, seeks improved energy use and environmental protection. We believe that our transportation investments, services and incentives should not only meet our travel needs, but also can further our efforts to protect and enhance the integrity of our natural resources and enhance resource efficiency and energy conservation goals.

We know that the use of recyclable materials in transportation projects conserves raw materials and reduces the quantities of waste deposited in landfills. We also see recyclable materials as part of a broader effort to extend the life cycle of our transportation facilities, an important value as we continue to look for ways to leverage available dollars.

Increased recycling can deliver engineering, economic and environmental benefits, including increased opportunities for rural economic development. The legislation would help create new markets and incentives for recycling in small communities and would provide additional savings for all levels of government. The legislation would also foster greater cooperation between transportation and environmental programs carried out by states or Indian tribes.

We applaud your leadership in developing this legislation and support your efforts to move it forward during this Congress.

Sincerely,

ANNE CANBY,
President.

S. 1168

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 "Recycled Roads Act of 2003".

SEC. 2. FINDINGS.

Congress finds that—

(1) in 2000, there were more than 3,951,000 miles of highways in the United States;

(2) in the early 1990s, as much as 350,000,000 tons of raw and recyclable material were used annually for highway construction, rehabilitation, and maintenance;

(3) in 2002, the Federal Government provided \$26,348,000,000, or more than 34 percent of funding, for highways in the United States;

(4) at least 45 States recycle a total of 73,000,000 tons of reclaimed asphalt pavement annually, the use of which results in an annual savings of approximately \$300,000,000 as compared with the cost of using raw material;

(5) in 2002, the Federal Highway Administration issued a policy encouraging States to use recycled material in highway construction because recycling and reuse can offer engineering, economic, and environmental benefits;

(6) greater incorporation of recyclable material in highway construction would—

(A) provide a significant new national market for the use of recyclable material;

(B) create new markets and incentives for recycling in small communities;

(C) conserve raw material; and

(D) reduce the quantities of waste deposited in landfills in the United States (which would produce an additional savings for the Federal Government and State governments); and

(7) the increased use of recyclable material in highway construction could—

(A) provide additional opportunities for rural economic development; and

(B) encourage expanded use of biomass products.

SEC. 3. USE OF RECYCLABLE MATERIAL IN FEDERAL-AID HIGHWAY CONSTRUCTION.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

“§ 139. Use of recyclable material in Federal-aid highway construction

“(a) DEFINITION OF RECYCLABLE MATERIAL.—In this section:

“(1) IN GENERAL.—The term ‘recyclable material’ means any material described in paragraph (2) that is determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency—

“(A) to be recyclable and usable in construction of a Federal-aid highway; and

“(B) to have undergone a recycling process to prepare the material for further use.

“(2) MATERIALS.—The materials referred to in paragraph (1) are—

“(A) glass;

“(B) forest biomass;

“(C) a used tire or tire product;

“(D) reclaimed asphalt;

“(E) plastic; and

“(F) any other suitable material that does not contain a total concentration of any toxic constituent that poses a risk to human health or the environment—

“(i) during preconstruction activity, including storage, transportation, or preparation of the material for use in road construction;

“(ii) during the useful life of the road; or

“(iii) after the useful life of the road, including subsequent recycling, reuse, or disposal of components of or debris from the road.

“(b) PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish a recycled roads incentive grant program to encourage the expanded use by States and Indian tribes of a diverse range of recyclable material in the construction of Federal-aid highways.

“(2) GRANTS.—In carrying out this section, the Secretary shall provide to each State or qualified (as determined by the Secretary) Indian tribe—

“(A) a grant, in an amount not to exceed \$125,000 for a fiscal year, to be used by the State or Indian tribe in employing a coordinator to promote the use of a diverse range of recyclable material in Federal-aid highway construction; and

“(B) a grant, on a competitive basis, in an amount not to exceed \$1,400,000 for a fiscal year, to be used by the State or Indian tribe in carrying out projects and activities to promote the expanded use of a diverse range of recyclable material in Federal-aid highway construction and maintenance, such as projects and activities to—

“(i) eliminate economic barriers;

“(ii) develop markets;

“(iii) provide outreach, training, or technical assistance; or

“(iv) collect program and performance data.

“(3) ADMINISTRATION.—

“(A) REDISTRIBUTION OF FUNDS.—If funds made available for use in providing grants under subparagraph (A) or (B) of paragraph (2) for a fiscal year remain after the Secretary has provided grants under the subparagraph for the fiscal year, the Secretary—

“(i) may use the remaining funds to provide additional grants under that paragraph for the fiscal year; but

“(ii) notwithstanding any other provision of this title, shall not use the funds to provide grants or assistance under any other program under this title.

“(B) TRANSPORTATION AND ENVIRONMENTAL COOPERATION.—In providing a grant to a State or Indian tribe under paragraph (2)(B), the Secretary shall encourage cooperation between transportation and environmental programs carried out by the State or Indian tribe.

“(C) EQUITABLE TREATMENT OF STATES AND INDIAN TRIBES.—To the maximum extent practicable, the Secretary shall treat an Indian tribe as a State for the purpose of a grant provided under paragraph (2).

“(4) STATE AND TRIBAL REPORTS.—For the fiscal year in which the program under this section is implemented and each fiscal year thereafter, each State and Indian tribe that receives a grant under paragraph (2) shall—

“(A) collect a sampling of data pertaining to the use by the State or Indian tribe, during the fiscal year covered by the report, of recyclable material in the projects for construction of Federal-aid highways in the

State or on land under the jurisdiction of the Indian tribe that are carried out under this section or any other provision of this title using at least \$1,000,000 in Federal funds, including a description of—

“(i) each type of recyclable material used;

“(ii) the quantity of each recyclable material used; and

“(iii) the proportion that—

“(I) the quantity of each recyclable material used; bears to

“(II) the quantity of all recyclable material and raw material used; and

“(B) submit to the Secretary a report describing those data.

“(5) QUALITY CONTROL.—The Secretary shall ensure, to the maximum extent practicable, that data provided by a State or Indian tribe under paragraph (4) is of a sufficient quality and range to permit the Secretary to assess national accomplishments involving the use of recyclable material.

“(c) REPORTS.—

“(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of the Recycled Roads Act of 2003, the Secretary shall submit to the appropriate committees of Congress a report on the program to be carried out under this section that includes—

“(A) an overview of program requirements;

“(B) an analysis of any significant issues relating to the program; and

“(C) a proposed timeline for implementation of the program.

“(2) ANNUAL REPORTS.—Not later than 2 years after the date of enactment of the Recycled Roads Act of 2003, and annually thereafter on the date of issuance of the annual program performance report under section 1116 of title 31, United States Code, the Secretary shall submit to the appropriate committees of Congress a report on the program under this section, including, for each recyclable material used in the construction of a Federal-aid highway during the period covered by the report, the information described in subsection (b)(4).

“(d) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account)—

“(1) \$10,125,000 for use in providing grants under subsection (b)(2)(A) for each fiscal year; and

“(2) \$113,400,000 for use in providing grants under subsection (b)(2)(B) for each fiscal year.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 138 the following:

“139. Use of recyclable material in Federal-aid highway construction.”.

By Mr. SPECTER:

S. 1169. A bill to decrease the United States dependence on imported oil by the year 2015; to the Committee on Commerce, Science, and Transportation.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that would reduce our Nation's dependence on imported oil. Last year, Senator CARPER and I introduced this legislation as an amendment to the energy bill and I offer it today to begin a debate and dialogue in the Senate about the merits of this goal.

During last year's energy bill consideration, I joined over 60 of my colleagues in voting for the Levin-Bond

amendment regarding the Corporate Average Fuel Economy standards for cars, SUV's, and light trucks. Given the instability in the Middle East and our Nation's reliance on foreign oil, Senator CARPER and I offered additional language to slow the growth of our dependency on oil in a measurable way on the energy bill.

I supported the Levin-Bond amendment because, among other things, it would have invested Federal dollars in research and development of advanced technology vehicles. It would have harnessed the power of government to purchase and commercialize hybrid and fuel cell-powered vehicles. I also supported the amendment's accompanying tax incentives, which would further encourage the production and purchase of advanced, fuel-efficient vehicles.

However, the Levin-Bond amendment fell short in one important area - it did not include a clear, measurable objective for oil savings. The issue is not just the Corporate Average Fuel Efficiency, CAFE, or Miles Per Gallon, MPG,—rather it is oil and our growing dependence on imports for 56 percent of what we use. The bill I am introducing today would implement the Levin-Bond requirement that the Secretary of Transportation issue new regulations setting forth increased average fuel economy standards and further require that the Secretary of Transportation issue regulations to reduce the amount of oil consumed in our passenger cars and light trucks in 2015 by 1,000,000 barrels per day compared to consumption without such regulations in place.

Federal research has identified promising fuel technologies, including fuels developed from biomass, coal waste, and other sources that could play a role in reducing our dependence on traditional, foreign crude oil and facilitate a transition to advanced fuels. For example, one important effort that is happening in Pennsylvania involves a recent \$100 million U.S. Department of Energy grant to build the first U.S. coal-waste-to-clean-fuel plant. This \$612 million plant is expected to produce 5,000 barrels of sulfur-free diesel or other types of transportation fuel daily. This will have the multiple benefits of removing coal waste, reducing acid mine drainage, producing fuels that will reduce air pollution, and using a domestic energy supply, thus reducing the need to import foreign oil. The bill I am introducing today tasks the Department of Energy to work with the Department of Transportation to develop and encourage such technologies.

America uses about 8 million barrels of oil daily to power the vehicles that we drive. The Department of Energy forecasts that this amount will climb to 10.6 million barrels per day by 2015, an increase of over 35 percent. I propose to limit that growth to 23 percent, or 9.6 million barrels.

America's national security is jeopardized by our growing dependence on foreign oil. Oil imports now account for

a third of our nation's trade deficit, which exceeded \$400 billion in 2001. I will continue to raise the issue of the untenable position the United States is in by relying on oil from the Middle East. This is highlighted by the fact that we continue to see suicide bombings in Israel and new attacks in other Middle Eastern nations such as Saudi Arabia and Morocco.

Additionally, the exhausts of our motor vehicles are the source of significant amounts of air pollution, including a quarter of the carbon dioxide emitted into our atmosphere, which is sited as a lead contributor to global climate change.

To address these concerns, Congress need not attempt to micro manage a solution by setting higher CAFE levels. We should, however, set a clear, measurable objective—reducing the growth in oil consumption by at least a million barrels per day by 2015. We should then delegate to NHTSA, as the energy bill would have accomplished last year under the Levin-Bond amendment and my legislation does, the responsibility for working with the auto industry to achieve that objective. That approach will encourage American ingenuity and foster a public-private partnership that recognizes the interests of consumers and auto makers, as well as furthering public policy that will help relieve the very significant and dangerous policy of relying on our economy's lifeblood of oil from unstable regions.

As this body considers energy legislation, I encourage my colleagues to consider the importance of taking appropriate steps to reduce our dependence on foreign sources of energy, particularly oil. I invite my colleagues to join me in this effort by cosponsoring this legislation.

By Mr. WYDEN:

S. 1170. A bill to designate certain conduct by sports agents relating to signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, summer is upon us. For many college athletes, that means leaving campus and heading back to a home in a different state. Some may take the opportunity to do some traveling, or even to attend sports camps in various parts of the country.

Unfortunately, this well-earned break can carry real risks for the athletes and their schools. Why? Because traveling student athletes may be big targets for opportunistic sports agents—and due to highly inconsistent state laws on the subject, the legal protections that an athlete might enjoy in the state where the college is located don't necessarily apply elsewhere.

Today I am reintroducing a bill to address this issue, the Sports Agent Responsibility and Trust Act. The purpose of the bill is simple: to set some

basic, uniform nationwide rules to prevent unscrupulous behavior by sports agents who court student athletes. The universities in Oregon with top athletic programs—the University of Oregon, Oregon State University, and Portland State University—have all provided letters of endorsement for this legislation. So has the NCAA.

Too often, unscrupulous sports agents prey upon young student athletes who are inexperienced, naive, or simply don't know all of the collegiate athletic eligibility rules. The agent sees the student athlete as a potentially lucrative future client, and wants to get the biggest headstart possible on other agents. So the agent tries to contact and sign up the student athlete as early as possible, and does whatever takes to get the inside track.

In some cases, the agent may attempt to lure the student athlete with grand promises. In some cases, the agent may offer flashy gifts. To make the offer more enticing, the agent may withhold crucial information about the impact on the student's eligibility to compete in college sports.

A majority of States have enacted statutes to address unprincipled behavior by sports agents, but the standards vary from State to State and some states don't have any at all. The universities in my State of Oregon tell me that this creates a significant loophole. Specifically, Oregon has a State law, but it doesn't apply when, for example, a University of Oregon athlete goes home to another State for the summer and is contacted by an agent there. Every time that athlete crosses into another State a different set of rules apply. And if one State's laws on the subject are particularly weak, that is where shady sports agents will try to contact their targets.

That is why there ought to be a single, nationwide standard. The bill I am introducing today would establish a uniform baseline, enforceable by the Federal Trade Commission, that would supplement but not replace existing state laws. Specifically, the bill would make it an unfair and deceptive trade practice for a sports agent to entice a student athlete with false or misleading information or promises or with gifts to the student athlete or the athlete's friends or family. It would require a sports agent to provide the student athlete with a clear, standardized warning, in writing, that signing an agency contract could jeopardize the athlete's eligibility to participate in college sports. It would make it unlawful to pre-date or post-date agency contracts, and require both the agent and student athlete to promptly inform the athlete's university if they do enter into a contract.

Representative BART GORDON of Tennessee has spearheaded this legislation in the House, where the Energy and Commerce Committee and the Judiciary Committee have both considered and approved the bill this year. I'm told that consideration on the House

floor could occur this week. I applaud Congressman GORDON for his leadership on this issue, and I urge my Senate colleagues to join me in addressing this matter in the Senate.

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. 1170

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 "Sports Agent Responsibility and Trust Act".

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) **AGENCY CONTRACT.**—The term "agency contract" means an oral or written agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports contract or an endorsement contract.

(2) **ATHLETE AGENT.**—The term "athlete agent" means an individual who enters into an agency contract with a student athlete, or directly or indirectly recruits or solicits a student athlete to enter into an agency contract, and does not include a spouse, parent, sibling, grandparent, or guardian of such student athlete, any legal counsel for purposes other than that of representative agency, or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) **ATHLETIC DIRECTOR.**—The term "athletic director" means an individual responsible for administering the athletic program of an educational institution or, in the case that such program is administered separately, the athletic program for male students or the athletic program for female students, as appropriate.

(4) **COMMISSION.**—The term "Commission" means the Federal Trade Commission.

(5) **ENDORSEMENT CONTRACT.**—The term "endorsement contract" means an agreement under which a student athlete is employed or receives consideration for the use by the other party of that individual's person, name, image, or likeness in the promotion of any product, service, or event.

(6) **INTERCOLLEGIATE SPORT.**—The term "intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of college athletics.

(7) **PROFESSIONAL SPORTS CONTRACT.**—The term "professional sports contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(8) **STATE.**—The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(9) **STUDENT ATHLETE.**—The term "student athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. An individual who is permanently ineligible to participate in a particular intercollegiate sport is not a student athlete for purposes of that sport.

SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE CONTACT BETWEEN AN ATHLETE AGENT AND A STUDENT ATHLETE.

(a) **CONDUCT PROHIBITED.**—It is unlawful for an athlete agent to—

(1) directly or indirectly recruit or solicit a student athlete to enter into an agency contract, by—

(A) giving any false or misleading information or making a false promise or representation; or

(B) providing anything of value to a student athlete or anyone associated with the student athlete before the student athlete enters into an agency contract including any consideration in the form of a loan, or acting in the capacity of a guarantor or co-guarantor for any debt;

(2) enter into an agency contract with a student athlete without providing the student athlete with the disclosure document described in subsection (b); or

(3) predate or postdate an agency contract.

(b) **REQUIRED DISCLOSURE BY ATHLETE AGENTS TO STUDENT ATHLETES.**—

(1) **IN GENERAL.**—In conjunction with the entering into of an agency contract, an athlete agent shall provide to the student athlete, or, if the student athlete is under the age of 18 to such student athlete's parent or legal guardian, a disclosure document that meets the requirements of this subsection. Such disclosure document is separate from and in addition to any disclosure which may be required under State law.

(2) **SIGNATURE OF STUDENT ATHLETE.**—The disclosure document must be signed by the student athlete, or, if the student athlete is under the age of 18 by such student athlete's parent or legal guardian, prior to entering into the agency contract.

(3) **REQUIRED LANGUAGE.**—The disclosure document must contain, in close proximity to the signature of the student athlete, or, if the student athlete is under the age of 18, the signature of such student athlete's parent or legal guardian, a conspicuous notice in bold-face type stating: "Warning to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future you may lose your eligibility to compete as a student athlete in your sport. Within 72 hours after entering into this contract or before the next athletic event in which you are eligible to participate, whichever occurs first, both you and the agent by whom you are agreeing to be represented must notify the athletic director of the educational institution at which you are enrolled, or other individual responsible for athletic programs at such educational institution, that you have entered into an agency contract."

SEC. 4. ENFORCEMENT.

(a) **UNFAIR OR DECEPTIVE ACT OR PRACTICE.**—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) **ACTIONS BY THE COMMISSION.**—The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

SEC. 5. ACTIONS BY STATES.

(a) **IN GENERAL.**—

(1) **CIVIL ACTIONS.**—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any athlete agent in a practice that violates section 3 of this Act, the State may bring a civil action

on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with this Act; or

(C) obtain damage, restitution, or other compensation on behalf of residents of the State.

(2) **NOTICE.**—

(A) **IN GENERAL.**—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) **EXEMPTION.**—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) **INTERVENTION.**—

(1) **IN GENERAL.**—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) **EFFECT OF INTERVENTION.**—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) **CONSTRUCTION.**—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) **ACTIONS BY THE COMMISSION.**—In any case in which an action is instituted by or on behalf of the Commission for a violation of section 3, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action.

(e) **VENUE.**—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(f) **SERVICE OF PROCESS.**—In an action brought under subsection (a), process may be served in any district in which the defendant—

(1) is an inhabitant; or

(2) may be found.

SEC. 6. PROTECTION OF EDUCATIONAL INSTITUTION.

(a) **NOTICE REQUIRED.**—Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the athlete agent and the student athlete shall each inform the athletic director of the educational institution at which the student athlete is enrolled, or other individual responsible for athletic programs at such educational institution, that the student athlete has entered into an agency contract, and the athlete agent shall provide the athletic director with notice in writing of such a contract.

(b) **CIVIL REMEDY.**—

(1) **IN GENERAL.**—An educational institution has a right of action against an athlete agent for damages caused by a violation of this Act.

(2) **DAMAGES.**—Damages of an educational institution may include and are limited to

actual losses and expenses incurred because, as a result of the conduct of the athlete agent, the educational institution was injured by a violation of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate actions likely to be imposed by such an association or conference.

(3) **COSTS AND ATTORNEYS FEES.**—In an action taken under this section, the court may award to the prevailing party costs and reasonable attorneys fees.

(4) **EFFECT ON OTHER RIGHTS, REMEDIES AND DEFENSES.**—This section does not restrict the rights, remedies, or defenses of any person under law or equity.

SEC. 7. LIMITATION.

Nothing in the Act shall be construed to prohibit an individual from seeking any remedies available under existing State law or equity.

SEC. 8. SENSE OF CONGRESS.

It is the sense of Congress that States should enact the Uniform Athlete Agents Act of 2000 drafted by the National Conference of Commissioners on Uniform State Laws, to protect student athletes and the integrity of amateur sports from unscrupulous sports agents. In particular, it is the sense of Congress that States should enact the provisions relating to the registration of sports agents, the required form of contract, the right of the student athlete to cancel an agency contract, the disclosure requirements relating to record maintenance, reporting, renewal, notice, warning, and security, and the provisions for reciprocity among the States.

By Mr. FRIST (for himself, Mr. BINGAMAN, Mr. DODD, Mr. DEWINE, Mrs. CLINTON, Mr. WARNER, Mrs. MURRAY, Mr. LUGAR, Ms. LANDRIEU, Mr. SESSIONS, and Mr. ALEXANDER):

S. 1172. A bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I rise today to discuss a particular public health problem—the growing rates of obesity. This epidemic has steadily increased to a level twice what it was thirty years ago. Obesity now affects over sixty percent of adults and thirteen percent of children and adolescents. Among young people, it is escalating at an alarming rate. This condition causes three hundred thousand deaths a year and is second only to smoking as the Nation's leading cause of preventable death. Overweight and obesity are associated with increased risk for heart disease, the leading cause of death, cancer, the second leading cause of death, diabetes, the seventh leading cause of death, and musculoskeletal disorders. Anyone with this condition has at least a 50 percent chance of a premature death.

As obesity continues to mount, the morbidity, mortality and health care costs associated with these disorders will skyrocket. Just this last month, a Health Affairs article estimated that nearly one-tenth of U.S. health care

costs are attributable to conditions resulting from obesity or being overweight. In 2002 dollars, the authors of this article estimate that obesity and overweight-related conditions cost \$92.6 billion. Of which, half is financed by Medicare and Medicaid.

Healthy People 2010 calls overweight and obesity one of the Nation's leading health problems and prioritizes efforts to increase the proportion of adults who are at a healthy weight, and reduce the levels of obesity and overweight among adults, children and adolescents. The Surgeon General's report "A Call to Action" lists the treatment and prevention of obesity as a top national priority.

Now, if this condition was linked to an infectious or bioterrorist agent, the public outcry would be deafening, and the action to control it swift. But it is not. Obesity and being overweight is often seen as an individual problem and a personal choice, and thus does not receive much attention. Most people do not choose to be overweight. Overweight and obesity result from daily lifestyle choices that gradually accumulate. Weight gain occurs slowly, often unnoticed. Today, many Americans struggle to control their weight, collectively spending billions of dollars each year on weight loss products and programs.

The good news is that, with healthy eating and regular physical activity, obesity is preventable and treatable. That is why I, along with Senator BINGAMAN, Senator DODD, and others, am reintroducing the "Improved Nutrition and Physical Activity, IMPACT, Act." I am pleased that Representatives MARY BONO and KAY GRANGER, along with other co-sponsors, introduced companion legislation in the House of Representatives earlier this year. This bill will help Americans make healthy decisions about nutrition and physical activity. It emphasizes youth education so that healthy habits can begin early. Finally, it funds demonstration projects to find innovative ways of improving eating and exercise habits.

There is no single solution to the growing epidemic of obesity. That is why the IMPACT Act takes a multifaceted approach. It implements evidence-based programs, where available, and includes rigorous evaluation of demonstration projects so we can learn what works best. This important legislation has a modest price tag, reflecting the appropriate role of the Federal Government. Most importantly, the IMPACT Act does not attempt to mandate what Americans eat or drink or to transfer to the Federal Government decisions that are best made at local levels.

Let me be clear that I am not against people making choices. I am all for choice, informed choice. What has happened, though, is that we as a society and as individuals have made choices about eating and activity, gradually and incrementally, without under-

standing or considering the consequences. Finally, and most importantly, this bill does not intend to and should not be considered to stigmatize those who struggle to control their weight or to demonize any sector of the country by blaming them for this epidemic. The IMPACT Act represents a bipartisan agreement that the problem of obesity is important, and takes an approach that is supported by a broad spectrum of interested parties. With the Federal Government providing assistance, all sectors of society will need to work together to help produce a healthier nation.

I believe we have crafted a good first response to the growing rates of obesity. A number of public health and industry experts support the passage of this important legislation. I ask unanimous consent that a list of the organizations supporting the legislation and the text of the bill be printed in the RECORD.

I want to thank Senators BINGAMAN and DODD for their work on this bill. I also want to thank Senator GREGG for his assistance in ensuring that this legislation can become law. Senator GREGG has worked tirelessly with my staff to ensure that we craft legislation that can be quickly passed by the Senate, and I appreciate his efforts. I look forward to having this bill become law this year.

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

GROUPS SUPPORTING THE IMPACT ACT

The Advertising Council, Inc.;
 Consortium for Citizens with Disabilities Prevention Task Force;
 Council on State and Territorial Epidemiologists;
 Endocrine Society;
 FamilyCook Productions: Bringing Families Together Through Fresh Food;
 Grocery Manufacturers of America;
 National Alliance for Nutrition and Activity;
 National Recreation and Parks Association;
 Research against Inactivity-related Disorders (RID);
 Samuels & Associates: Public Health Research, Evaluation, and Policy Consultants;
 Society for Nutrition Education;
 Structure House;
 University of North Carolina at Chapel Hill, School of Public Health; and
 YMCA.

S. 1172

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 "Improved Nutrition and Physical Activity Act" or the "IMPACT Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) An estimated 61 percent of adults and 13 percent of children and adolescents in the Nation are overweight or obese.

(2) The prevalence of obesity and being overweight is increasing among all age groups. There are twice the number of overweight children and 3 times the number of overweight adolescents as there were 29 years ago.

(3) An estimated 300,000 deaths a year are associated with being overweight or obese.

(4) Obesity and being overweight are associated with an increased risk for heart disease (the leading cause of death), cancer (the second leading cause of death), diabetes (the 6th leading cause of death), and musculoskeletal disorders.

(5) Individuals who are obese have a 50 to 100 percent increased risk of premature death.

(6) The Healthy People 2010 goals identify obesity and being overweight as one of the Nation's leading health problems and include objectives of increasing the proportion of adults who are at a healthy weight, reducing the proportion of adults who are obese, and reducing the proportion of children and adolescents who are overweight or obese.

(7) Another goal of Healthy People 2010 is to eliminate health disparities among different segments of the population. Obesity is a health problem that disproportionately impacts medically underserved populations.

(8) The United States Surgeon General's report "A Call To Action" lists the treatment and prevention of obesity as a top national priority.

(9) The estimated direct and indirect annual cost of obesity in the United States is \$117,000,000,000 (exceeding the cost of tobacco-related illnesses) and appears to be rising dramatically. This cost can potentially escalate markedly as obesity rates continue to rise and the medical complications of obesity are emerging at even younger ages. Therefore, the total disease burden will most likely increase, as well as the attendant health-related costs.

(10) Weight control programs should promote a healthy lifestyle including regular physical activity and healthy eating, as consistently discussed and identified in a variety of public and private consensus documents, including "A Call To Action" and other documents prepared by the Department of Health and Human Services and other agencies.

(11) Eating preferences and habits are established in childhood.

(12) Poor eating habits are a risk factor for the development of eating disorders and obesity.

(13) Simply urging overweight individuals to be thin has not reduced the prevalence of obesity and may result in other problems including body dissatisfaction, low self-esteem, and eating disorders.

(14) Effective interventions for promoting healthy eating behaviors should promote healthy lifestyle and not inadvertently promote unhealthy weight management techniques.

(15) Binge Eating is associated with obesity, heart disease, gall bladder disease, and diabetes.

(16) Anorexia Nervosa, an eating disorder from which 0.5 to 3.7 percent of American women will suffer in their lifetime, is associated with serious health consequences including heart failure, kidney failure, osteoporosis, and death. In fact, Anorexia Nervosa has the highest mortality rate of all psychiatric disorders, placing a young woman with Anorexia at 18 times the risk of death of other women her age.

(17) Anorexia Nervosa and Bulimia Nervosa usually appears in adolescence.

(18) Bulimia Nervosa, an eating disorder from which an estimated 1.1 to 4.2 percent of American women will suffer in their lifetime, is associated with cardiac, gastrointestinal, and dental problems, including irregular heartbeats, gastric ruptures, peptic ulcers, and tooth decay.

(19) On the 1999 Youth Risk Behavior Survey, 7.5 percent of high school girls reported

recent use of laxatives or vomiting to control their weight.

(20) Binge Eating Disorder is characterized by frequent episodes of uncontrolled overeating, with an estimated 2 to 5 percent of Americans experiencing this disorder in a 6-month period.

(21) Eating disorders are commonly associated with substantial psychological problems, including depression, substance abuse, and suicide.

(22) Eating disorders of all types are more common in women than men.

TITLE I—TRAINING GRANTS

SEC. 101. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSION STUDENTS.

Section 747(c)(3) of title VII of the Public Health Service Act (42 U.S.C. 293k(c)(3)) is amended by striking "and victims of domestic violence" and inserting "victims of domestic violence, individuals (including children) who are overweight or obese (as such terms are defined in section 399W(j)) and at risk for related serious and chronic medical conditions, and individuals who suffer from eating disorders".

SEC. 102. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSIONALS.

Section 399Z of the Public Health Service Act (42 U.S.C. 280h-3) is amended—

(1) in subsection (b), by striking "2005" and inserting "2007";

(2) by redesignating subsection (b) as subsection (c); and

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

"(b) GRANTS.—

"(1) IN GENERAL.—The Secretary may award grants to eligible entities to train primary care physicians and other licensed or certified health professionals on how to identify, treat, and prevent obesity or eating disorders and aid individuals who are overweight, obese, or who suffer from eating disorders.

"(2) APPLICATION.—An entity that desires a grant under this subsection shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including a plan for the use of funds that may be awarded and an evaluation of the training that will be provided.

"(3) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the funds made available through such grant to—

"(A) use evidence-based findings or recommendations that pertain to the prevention and treatment of obesity, being overweight, and eating disorders to conduct educational conferences, including Internet-based courses and teleconferences, on—

"(i) how to treat or prevent obesity, being overweight, and eating disorders;

"(ii) the link between obesity and being overweight and related serious and chronic medical conditions;

"(iii) how to discuss varied strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to avoid obesity, being overweight, and eating disorders;

"(iv) how to identify overweight and obese patients and those who are at risk for obesity and being overweight or suffer from eating disorders and, therefore, at risk for related serious and chronic medical conditions;

"(v) how to conduct a comprehensive assessment of individual and familial health risk factors; and

"(B) evaluate the effectiveness of the training provided by such entity in increasing knowledge and changing attitudes and behaviors of trainees."

TITLE II—COMMUNITY-BASED SOLUTIONS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION

SEC. 201. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by striking section 399W and inserting the following:

"SEC. 399W. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the Health Resources and Services Administration, the Director of the Indian Health Service, the Secretary of Education, the Secretary of Agriculture, the Secretary of the Interior, the Director of the National Institutes of Health, the Director of the Office of Women's Health, and the heads of other appropriate agencies, shall award competitive grants to eligible entities to plan and implement programs that promote healthy eating behaviors and physical activity to prevent eating disorders, obesity, being overweight, and related serious and chronic medical conditions. Such grants may be awarded to target at-risk populations including youth, adolescent girls, racial and ethnic minorities, and the underserved.

"(2) TERM.—The Secretary shall award grants under this subsection for a period not to exceed 4 years.

"(b) AWARD OF GRANTS.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a plan describing a comprehensive program of approaches to encourage healthy eating behaviors and healthy levels of physical activity;

"(2) the manner in which the eligible entity will coordinate with appropriate State and local authorities, including—

"(A) State and local educational agencies;

"(B) departments of health;

"(C) chronic disease directors;

"(D) State directors of programs under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(E) 5-a-day coordinators;

"(F) governors' councils for physical activity and good nutrition; and

"(G) State and local parks and recreation departments; and

"(3) the manner in which the applicant will evaluate the effectiveness of the program carried out under this section.

"(c) COORDINATION.—In awarding grants under this section, the Secretary shall ensure that the proposed programs are coordinated in substance and format with programs currently funded through other Federal agencies and operating within the community including the Physical Education Program (PEP) of the Department of Education.

"(d) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) a city, county, tribe, territory, or State;

"(2) a State educational agency;

"(3) a tribal educational agency;

"(4) a local educational agency;

"(5) a federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4));

"(6) a rural health clinic;

"(7) a health department;

"(8) an Indian Health Service hospital or clinic;

"(9) an Indian tribal health facility;

“(10) an urban Indian facility;
 “(11) any health care service provider;
 “(12) an accredited university or college; or
 “(13) any other entity determined appropriate by the Secretary.

“(e) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the funds made available through the grant to—

“(1) carry out community-based activities including—

“(A) planning and implementing environmental changes that promote physical activity;

“(B) forming partnerships and activities with businesses and other entities to increase physical activity levels and promote healthy eating behaviors at the workplace and while traveling to and from the workplace;

“(C) forming partnerships with entities, including schools, faith-based entities, and other facilities providing recreational services, to establish programs that use their facilities for after school and weekend community activities;

“(D) establishing incentives for retail food stores, farmer’s markets, food coops, grocery stores, and other retail food outlets that offer nutritious foods to encourage such stores and outlets to locate in economically depressed areas;

“(E) forming partnerships with senior centers and nursing homes to establish programs for older people to foster physical activity and healthy eating behaviors;

“(F) forming partnerships with day care facilities to establish programs that promote healthy eating behaviors and physical activity; and

“(G) providing community educational activities targeting good nutrition;

“(2) carry out age-appropriate school-based activities including—

“(A) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

“(i) after hours physical activity programs;

“(ii) increasing opportunities for students to make informed choices regarding healthy eating behaviors; and

“(iii) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problem-solving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

“(B) providing education and training to educational professionals regarding a healthy lifestyle and a healthy school environment;

“(C) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

“(D) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity;

“(3) carry out activities through the local health care delivery systems including—

“(A) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

“(B) providing patient education and counseling to increase physical activity and promote healthy eating behaviors; and

“(C) providing community education on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eat-

ing disorders, obesity, or being overweight; or

“(4) other activities determined appropriate by the Secretary.

“(f) MATCHING FUNDS.—In awarding grants under subsection (a), the Secretary may give priority to eligible entities who provide matching contributions. Such non-Federal contributions may be cash or in kind, fairly evaluated, including plant, equipment, or services.

“(g) TECHNICAL ASSISTANCE.—The Secretary may set aside an amount not to exceed 10 percent of the total amount appropriated for a fiscal year under subsection (k) to permit the Director of the Centers for Disease Control and Prevention to provide grantees with technical support in the development, implementation, and evaluation of programs under this section and to disseminate information about effective strategies and interventions in preventing and treating obesity and eating disorders through the promotion of healthy eating behaviors and physical activity.

“(h) LIMITATION ON ADMINISTRATIVE COSTS.—An eligible entity awarded a grant under this section may not use more than 10 percent of funds awarded under such grant for administrative expenses.

“(i) REPORT.—Not later than 6 years after the date of enactment of the Improved Nutrition and Physical Activity Act, the Director of the Centers for Disease Control and Prevention shall review the results of the grants awarded under this section and other related research and identify programs that have demonstrated effectiveness in healthy eating behaviors and physical activity in youth.

“(j) DEFINITIONS.—In this section:

“(1) ANOREXIA NERVOSA.—The term ‘Anorexia Nervosa’ means an eating disorder characterized by self-starvation and excessive weight loss.

“(2) BINGE EATING DISORDER.—The term ‘binge eating disorder’ means a disorder characterized by frequent episodes of uncontrolled eating.

“(3) BULIMIA NERVOSA.—The term ‘Bulimia Nervosa’ means an eating disorder characterized by excessive food consumption, followed by inappropriate compensatory behaviors, such as self-induced vomiting, misuse of laxatives, fasting, or excessive exercise.

“(4) EATING DISORDERS.—The term ‘eating disorders’ means disorders of eating, including Anorexia Nervosa, Bulimia Nervosa, and binge eating disorder.

“(5) HEALTHY EATING BEHAVIORS.—The term ‘healthy eating behaviors’ means—

“(A) eating in quantities adequate to meet, but not in excess of, daily energy needs;

“(B) choosing foods to promote health and prevent disease;

“(C) eating comfortably in social environments that promote healthy relationships with family, peers, and community; and

“(D) eating in a manner to acknowledge internal signals of hunger and satiety.

“(6) OBESE.—The term ‘obese’ means an adult with a Body Mass Index (BMI) of 30 kg/m² or greater.

“(7) OVERWEIGHT.—The term ‘overweight’ means an adult with a Body Mass Index (BMI) of 25 to 29.9 kg/m² and a child or adolescent with a BMI at or above the 95th percentile on the revised Centers for Disease Control and Prevention growth charts or another appropriate childhood definition, as defined by the Secretary.

“(8) YOUTH.—The term ‘youth’ means individuals not more than 18 years old.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$60,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008. Of the funds appropriated pursuant to this sub-

section, the following amounts shall be set aside for activities related to eating disorders:

“(1) \$5,000,000 for fiscal year 2004.

“(2) \$5,500,000 for fiscal year 2005.

“(3) \$6,000,000 for fiscal year 2006.

“(4) \$6,500,000 for fiscal year 2007.

“(5) \$1,000,000 for fiscal year 2008.

SEC. 202. NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended by striking subsection (n) and inserting the following:

“(n)(1) The Secretary, acting through the Center, may provide for the—

“(A) collection of data for determining the fitness levels and energy expenditure of children and youth; and

“(B) analysis of data collected as part of the National Health and Nutrition Examination Survey and other data sources.

“(2) In carrying out paragraph (1), the Secretary, acting through the Center, may make grants to States, public entities, and nonprofit entities.

“(3) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.”.

SEC. 203. STUDY OF THE FOOD SUPPLEMENT AND NUTRITION PROGRAMS OF THE DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—The Secretary of Agriculture shall request that the Institute of Medicine conduct, or contract with another entity to conduct, a study on the food and nutrition assistance programs run by the Department of Agriculture.

(b) CONTENT.—Such study shall—

(1) investigate whether the nutrition programs and nutrition recommendations are based on the latest scientific evidence;

(2) investigate whether the food assistance programs contribute to either preventing or enhancing obesity and being overweight in children, adolescents, and adults;

(3) investigate whether the food assistance programs can be improved or altered to contribute to the prevention of obesity and becoming overweight; and

(4) identify obstacles that prevent or hinder the programs from achieving their objectives.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall submit to the appropriate committees of Congress a report containing the results of the Institute of Medicine study authorized under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$750,000 for fiscal years 2003 and 2004.

SEC. 204. HEALTH DISPARITIES REPORT.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director of the Agency for Healthcare Research and Quality shall review all research that results from the activities outlined in this Act and determine if particular information may be important to the report on health disparities required by section 903(c)(3) of the Public Health Service Act (42 U.S.C. 299a-1(c)(3)).

SEC. 205. PREVENTIVE HEALTH SERVICES BLOCK GRANT.

Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)) is amended by adding at the end the following:

“(H) Activities and community education programs designed to address and prevent overweight, obesity, and eating disorders through effective programs to promote healthy eating, and exercise habits and behaviors.”.

SEC. 206. REPORT ON OBESITY RESEARCH.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on research conducted on causes and health implications of obesity and being overweight.

(b) CONTENT.—The report described in subsection (a) shall contain—

(1) descriptions on the status of relevant, current, ongoing research being conducted in the Department of Health and Human Services including research at the National Institutes of Health, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, and other offices and agencies;

(2) information about what these studies have shown regarding the causes of, prevention of, and treatment of, overweight and obesity; and

(3) recommendations on further research that is needed, including research among diverse populations, the department's plan for conducting such research, and how current knowledge can be disseminated.

SEC. 207. REPORT ON A NATIONAL CAMPAIGN TO CHANGE CHILDREN'S HEALTH BEHAVIORS AND REDUCE OBESITY.

Section 399Y of the Public Health Service Act (42 U.S.C. 280h-2) is amended—

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

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

“(b) REPORT.—The Secretary shall evaluate the effectiveness of the campaign described in subsection (a) in changing children's behaviors and reducing obesity and shall report such results to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.”

Mr. BINGAMAN. Mr. President, I rise today in support of the Improved Nutrition and Physical Activity or IMPACT Bill that Senator FRIST has introduced with myself and Senators DODD, DEWINE, CLINTON, WARNER, MURRAY, LUGAR, LANDRIEU, and SESSIONS. This is a bill that is critical in this era of chronic disease, as it addresses the mounting public health concerns of obesity, overweight, eating disorders, and their related diseases such as diabetes and cardiovascular disease.

Approximately 61 percent of adults and 13 percent of children and adolescents in our Nation today are overweight or obese. These individuals have a significantly greater risk of diseases such as diabetes, heart disease, and stroke than their healthy weight peers. Another 5 to 10 percent of Americans are suffering from eating disorders that can also manifest themselves in a number of physical and psychological illnesses including heart disease, osteoporosis, kidney failure, depression, anxiety, and suicide. Unfortunately, these rates of overweight, obesity, and eating disorders are rising in both adult and child populations. Since obesity is a health problem that disproportionately impacts medically underserved populations, it is rapidly increasing the medical burden on these already overburdened populations.

The economic implications of the obesity epidemic are equally disturbing. The estimated direct and indirect annual cost of obesity in the United States is now 117 billion dollars—exceeding the cost of tobacco-related illnesses. These costs will only continue to climb unless we make a concerted effort to stem this dangerous tide by initiating primary and secondary prevention programs.

It is this conclusion that led the United States Surgeon General to issue a Call to Action listing the treatment and prevention of obesity as a top national priority. It is this conclusion that has led Secretary Thompson to implement the Steps to a Healthier US initiative. And it is this reality that makes passing the IMPACT bill a critical step towards improving our nation's future health and well-being.

Obesity and eating disorders are complex diseases and as such require comprehensive multidisciplinary solutions. IMPACT aims to move us toward those solutions by addressing these diseases on a number of levels. First, it aims to prepare the health care community to deal with obesity from prevention to diagnosis to intervention by adding obesity, overweight, and eating disorders to the list of priority conditions to be addressed in the health professions Title VII training grants.

Second, IMPACT supports community-based solutions to increase physical activity and improve nutrition on a number of levels. It provides funding for demonstration projects in communities, schools, health care organizations, and other qualified entities that promote fitness or healthy nutrition. It authorizes the CDC to collect fitness and energy expenditure information from children. It directs AHRQ to review any new information relating to obesity trends among various sub-populations and include such information in its health disparities report. It allows states to use their Preventive Services Block Grant money for community education on nutrition and increased physical activity. It instructs the Secretary to report on what research has been done in the area of obesity, what has been learned from this research, and what future research should be conducted. And finally, it asks the secretary to report on the effectiveness of the Youth Media Campaign in changing children's behaviors and reducing obesity.

IMPACT is supported by a wide variety of public and private organizations. The National Alliance for Nutrition and Activity or NANA, an organization including more than 250 national, state, and local organizations and the single largest coalition in the U.S. dedicated to promoting healthy eating and physical activity and reducing obesity states, “NANA strongly supports your efforts to reduce obesity and improve eating and activity habits in the U.S. through the IMPACT bill.” Other organizations that have stated their support include the American Heart

Association, the American Cancer Society, the Council for States and Territorial Epidemiologists, the Society for Nutrition Education, and the American Dietetic Association.

This legislation is an excellent first step in the fight for improved health, but it is not the only step we must take. We need to assist our schools in providing healthy nutrition options and expanding physical activity programs. We need to grow the workforce so that people have access to the healthcare professionals they need to prevent, diagnose, and treat obesity and eating disorders. We need to look at Medicare and Medicaid and insure that they provide the services necessary to help people prevent and treat obesity and its complications so that we reduce the burden of these diseases in these vulnerable populations. And we need to promote research in the areas of obesity prevention and treatment so that we can offer people better and more effective interventions in the future. These are not small goals but they are critical to our nation's health. I will continue to work on additional legislation that will take the next steps toward addressing these and other related concerns.

For today, I would like to ask all of my colleagues to join me in taking this very important first step toward reducing obesity and eating disorders by supporting this important legislation. By passing this bill we can truly IMPACT the health of our nation.

Mrs. CLINTON. Mr. President, I rise today to speak about a frightening epidemic in our Nation. A staggering 61 percent of adults and 13 percent of children and adolescents in our Nation are overweight or obese. The number of overweight children has doubled and the number of overweight adolescents has tripled since 1980, according to the Surgeon General. The estimated direct and indirect annual cost of obesity in the United States is \$117,000,000,000, exceeding even smoking-related illnesses.

That is why I am pleased to join Senators FRIST, BINGAMAN, DODD and others in introducing the Improved Nutrition and Physical Activity Act of 2003. This bill takes important steps to fund programs that ensure healthy eating behaviors and improved physical activity. Funding this program will save Americans vastly more in lower health care costs. The bill also takes critical steps to educate health professionals to help us fight this epidemic. With smoking, we learned that a simple recommendation from a health professional to stop could have a dramatic impact in reducing smoking. It is just as important to make sure our health care providers are equipped to help mold healthy behaviors in our fight against obesity.

I also appreciate Senator FRIST's willingness to incorporate important provisions from my Promoting Healthy Eating Behaviors in Youth Act of 2002. While it is so important to fight the obesity epidemic, we should not inadvertently send the wrong message by

telling our children and adults simply to eat less and exercise. Unfortunately, many adolescents misinterpret this as a message that they should eat to achieve the body of a runway model. Anorexia and bulimia are increasingly common among our Nation's youth. Recent data from the 1999 Youth Risk Behavior Survey indicated that 7 percent of young women who were very thin (body mass index less than 15 percentile) reported taking laxatives or vomiting to lose weight or to avoid gaining weight. An even larger percentage 9 percent of these very thin young women reported using diet pills.

While it is important to prevent diabetes and heart disease that may result from obesity, eating disorders also have their own very serious consequences. Anorexia nervosa, which will affect 3.7 percent of American women sometime in their lifetime, leads to heart failure, kidney failure, and osteoporosis. In fact, a young woman is 12 times more likely to die than other women her age without anorexia.

Poor eating habits have also led to a "calcium crisis" among American youth. Very few adolescent girls (14 percent get the recommended daily amount of calcium, placing them at serious risk for osteoporosis and other bone diseases. Because nearly 90 percent of adult bone mass is established by the end of adolescent growth period, the Nation's youth's insufficient calcium intake is truly a calcium crisis. The consequence of this crisis will be seen years later, when we are likely to face an unprecedented incidence of osteoporosis in women.

That is why I am especially grateful to see the use of a balanced "healthy eating behavior" definition in the bill, and to see that a portion of the grants in the bill are set aside for eating disorders education programs. While we certainly need to focus on exercise and appropriate nutritional behavior, it is certainly just as important to teach our children and adults how to engage in regular physical exercise and lose weight in a healthy way.

I am proud to join Senators FRIST, BINGAMAN, DODD, WARNER, DEWINE, MURRAY, LUGAR, and LANDRIEU in this important legislative initiative, and eagerly anticipate its progress as we fight a significant public health epidemic.

By Mr. GRASSLEY (for himself, Mr. FRIST, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mrs. HUTCHISON):

S. 1173. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I want to speak briefly about low-income families and the recently passed tax bill. There has been much heat and very little light about what we have done in this bill. Most of the heat has

been focused on the conference decision not to retain the Senate position regarding acceleration from 10 percent to 15 percent as part of the refundable child credit—a change already scheduled to take place in 2005.

Before I discuss this matter in detail, let me start by saying that I agree with my colleagues that we should seek to reconsider this provision. I am introducing legislation today that will do that, and will also, of equal, and perhaps greater importance, provide a uniform definition of a child and make the \$1,000 child credit permanent. Finally, my bill will eliminate the marriage penalty that is contained in the child credit. This bill is an encompassing effort to help low-income and middle-income families.

The uniform definition of a child will help hundreds of thousands of families receive tax benefits for which they are not currently eligible. As important, it will bring simplification and clarity for millions of families, ensuring that they are not subject to IRS audit and collection efforts.

The bill also makes permanent the \$1,000 child credit. Otherwise, in 2005 working families with two eligible children will receive a \$600 tax increase as the tax credit drops to \$700. In addition, the bill accelerates the refundable calculation from 10 percent to 15 percent.

Finally, the bill addresses the marriage penalty contained in the child credit. Currently, the child credit phases out at \$75,000 for a single mother and a \$110,000 for a married couple. My bill would eliminate the marriage penalty by having the credit phase out at \$150,000. In addition, it adjusts the phase-out level for inflation.

I do not need to wait for comments from my colleagues or from the media to take this action. Many from the media who attended my press conference the day of final passage of the conference report will recall that I stated then that I would quickly seek to revisit the child tax credit issues and seek Senate action on permanency of the child credit.

Let me turn now to the acceleration issue. The media and some members of Congress seem to have a willful blindness as they discuss this matter. What are they blind to? The Earned Income Credit, EIC, program provides great assistance to the very population that is of concern.

Let me give you an example: A family of four making \$11,000 will be eligible for \$50 under the refundable child credit. By accelerating it, as proposed by my bill and by others, they will now be eligible for \$75. What does this family get under EIC? In 2002 they will get a check for \$4,140. That means that family is paying no income tax and payroll tax of \$842 and is getting a payment from the federal government of almost \$3,300 in excess of the payroll tax they pay.

You would never know this from the media accounts and the press releases.

And even if there is a mention of the EIC, I have seen no mention of the dollar amount—the \$4,000-plus check for families with two children and \$2,500 for families with one child. Why is that? Because the chicken littles are too busy running around. I would hope that the concept of "context" would not be something of which the media has to be reminded. You would think from reading speeches and media accounts that the whole tax relief provided in the tax code to a family making \$11,000 is the refundable child credit. The child credit for these families at this income level is a thimble compared to the enormous benefits of EIC.

Let me remind my colleagues of the purpose of the child credit: It was designed to address the perceived penalty for working families as the EIC began to phase out. In fact, the original proposal of the refundable child credit that I drafted with Senator BAUCUS in 2001 would not have begun to take effect until the point where the EIC begins to phase-out—at approximately \$13,500 for a head of household and \$14,500 for married couples.

The Finance Committee heard testimony, and it was the repeated view of academics, that Congress needed to address the phase-out of the EIC. There was no testimony to the Senate Finance Committee and I can find very little in respectable academic discussions that advocated an increase in the check for EIC recipients—that the EIC top amount of \$4,000 plus for two children or \$2,500 for one child was insufficiently generous.

So that is what was the genesis of the Finance Committee's support for a child credit—addressing somewhat the EIC phase-out as families begin to make more money. However, the beginning point of the phase-in was shifted at the request of some Senators to \$10,000. That does not negate that the underlying purpose was and is to deal with the EIC phase-out.

This concern about the phase-out is reflected in the actions we took in conference. By raising the child credit to \$1,000 we helped put more money in the pocket of a single mom with one child making \$17,000 to \$20,000.

That single mom making \$20,000 will now get a \$1,000 check instead of a \$600 check under previous law.

What if we were to only do as some propose and do acceleration to 15 percent but not increase the child credit in 2005 to \$1,000?

Yes, it will mean a bit more for those families already receiving a \$4,000-plus check under EIC—and I recognize that every penny counts to these families. But this proposal will also mean a tax increase on that single mom making \$18,000, that single dad making \$19,000 and that married couple with one child making \$20,000. Why? Because they benefit more from the increase in the child credit to \$1,000. The acceleration will not benefit them; they will quickly meet the maximum child credit. It is the increase to \$1,000 that is the real

benefit for these families that do not receive the maximum benefits under EIC.

That is why I urge my colleagues to support my legislation that helps millions of working families, and doesn't impose a tax on families that are working hard and getting themselves a little bit better paying job.

And let me close with one other note. My colleagues should remember that it still takes 3 million taxpayers off the rolls completely. They will no longer have to pay tax under this legislation. Much of that is due to the increase in the child credit to \$1,000.

Finally, for those who want to talk about income tax relief for low-income individuals, I would encourage them to remember this is many ways a bill that is in concert with the 2001 tax relief that created the 10 percent bracket and provided great income tax relief to singles. Again, a bigger picture that provides greater context of our work will show that we are providing broad-based relief to millions of taxpayers.

I urge my colleagues to work with me in passing this full relief for families. I also think it is important that we pass legislation that can be passed into law by working with the House and the White House. We have already passed legislation that deals with just the 10 percent to 15 percent—the Finance Committee passed it and the Senate passed it. The Senate is on record on this matter already. Now is the time to bring real relief and permanent relief to all working families.

By Ms. STABENOW (for herself,
Mr. SMITH, and Mr. DAYTON):

S. 1175. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer; to the Committee on Finance.

Ms. STABENOW. Mr. President, I believe "home" is one of the warmest words in the English language. At the end of a long day, I think the favorite phrase of every hardworking working man and woman in this country is: "Well, I'll see you tomorrow. I'm going home now."

That is why I rise today to introduce the First Time Homebuyers' Tax Credit Act of 2003.

The bill I am introducing will spread that warmth by opening the door to homeownership to millions of hardworking families, helping them cover the initial down payment and closing costs.

This initiative is in keeping with our longstanding national policy of encouraging homeownership.

Owning a home has always been a fundamental part of the American dream.

We, in Congress, have long recognized the social and economic value in high rates of homeownership through laws that we have enacted, such as the mortgage interest tax deduction and the capital gains exclusion on the sale of a home.

Over the life of a loan, the mortgage interest tax deduction can save homeowners thousands of dollars that they could use for other necessary family expenses such as education or health care.

These benefits, however, are only available to individuals who own their own home.

It is important also to note that owning a home is a principle and reliable source of savings as homeowners build equity over the years and their homes appreciate.

For many people, it is home equity—not stocks—that help them through the retirement years.

In addition, owning a home insulates people from spikes in housing costs.

Indeed, while rents may go up, the costs of a monthly mortgage payment, in relative terms, will go down over the course of the mortgage.

In my own State of Michigan, the homeownership rate of 74 percent is the third highest in the Nation and well above the national rate of 66 percent.

In Oregon, the home State of my bill's lead Republican sponsor, Senator GORDON SMITH, the homeownership rate is 64.3 percent—about 2 percent below the national average.

However, as impressive as these numbers may initially sound, not everyone enjoys the benefits of homeownership.

For example, homeownership in Michigan among whites is 78 percent; Native Americans 60 percent; Hispanics 55 percent; African Americans 51 percent; and Asians 50 percent.

A national study by the Fannie Mae Foundation found that in the top third of income levels, 44 percent of people under the age of 31 owned their own home.

But, for the lowest third on the income scale, only 15.6 percent owned their own home—a 28 percent gap!

Why do we face these disparities? Clearly, one of the biggest barriers to homeownership for working families is the cost of a down payment and the costs associated with closing a mortgage.

According to the Mortgage Bankers Association, typical closing costs on an average sized loan of \$175,000 can approach approximately \$4,000.

Even with relatively recent mortgage products that allow a downpayment of as little as 3 percent of the value of a home, total costs can quickly approach over \$9,000.

This is an impossible amount to save for those who are scraping by, working hard to make ends meet.

To address this problem, I am introducing the First Time Homebuyers' Tax Credit Act of 2003.

My bill authorizes a one-time tax credit of up to \$3,000 for individuals and \$6,000 for married couples.

This credit is similar to the existing mortgage interest tax deduction in that it creates incentives for people to buy a home.

To be eligible for the credit, taxpayers must be first-time homebuyers

who were within the 27 percent tax bracket or lower in the year before they purchase their home. That is \$67,700 for single filers, \$96,700 for heads of household, \$112,850 for joint returns. There is a dollar-for-dollar phase-out beyond the cap.

Normally, tax credits like this are an after-the-fact benefit. They do little to get people actually into a home.

What is particularly innovative and beneficial about the tax credit in this bill, however, is that, for the first time, the taxpayer can either claim the credit in the year after he or she buys a first home or the taxpayer can transfer the credit directly to a lender at closing.

The transferred credit would go toward helping with the down payment or closing costs. This is cash at the table.

As mandated in the bill, the eligible homebuyer would have the money for the lender from the Treasury within 30 days of application.

I am happy to say that this legislation already has strong support. Among those who have already written to me in support of this concept are:

The American Bankers Association; America's Community Bankers; the Housing Partnership Network; the National Housing Conference; the National Congress for Community Economic Development; the National Council of La Raza; the National Association of Affordable Housing Lenders; the Manufactured Housing Institute; Fannie Mae; Freddie Mac; National Community Reinvestment Coalition; Standard Federal Bank; Habitat for Humanity, and, the National American Indian Housing Council.

I ask unanimous consent that copies of their letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD.

HABITAT FOR
HUMANITY INTERNATIONAL,
Washington, DC, May 12, 2003.

Hon. DEBBIE STABENOW,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR STABENOW: On behalf of Habitat for Humanity International, I want to commend you for your leadership on issues of affordable housing and for putting forth legislation—the First-Time Homebuyers Tax Credit Act—that will enable low-income families with little or no savings to overcome the two largest obstacles faced on the path to homeownership: downpayments and closing costs.

As you know, Habitat for Humanity has witnessed, through the sale of over 135,000 homes worldwide to Habitat homeowner families, that homeownership is one of the most important personal and financial investments for individuals, families, and communities. By expanding first-time homeownership opportunities to thousands of low-income families via a one-time tax credit, the First-Time Homebuyers Tax Credit Act will help close the homeownership gap and provide new wealth-building opportunities for thousands who would perhaps in no other way experience the American Dream.

Habitat for Humanity affiliates across the country address the issue of daunting financial barriers posed by downpayments and

closing costs by charging only a minimal amount or by enabling potential homeowner families to forgo the requirement altogether, relying on a homeowner's "sweat equity" in the construction of their home as sufficient deposit. While this legislation may not directly affect the work of our Habitat affiliates, HFHI is pleased to offer our support to you as we work together to provide new homeownership opportunities to strengthen families, revitalize neighborhoods, and close the homeownership gap among racial groups.

Again, we applaud your commitment to affordable housing issues and for sponsoring legislation that reflects your conviction that all Americans should have a decent, safe, and affordable place in which to live. If we can be of any assistance, please do not hesitate to contact me or Amy Randel, Director of Government Relations, at 202/628-9171.

Gratefully yours,

TOM JONES,
Vice President, HFHI/Managing Director.

STANDARD FEDERAL BANK,
Troy, MI, March 27, 2003.

Hon. DEBBIE A. STABENOW,
*Hart Senate Office Building,
Washington, DC.*

DEAR SENATOR STABENOW: Standard Federal Bank National Association ("SFB") appreciates the opportunity to comment on the proposed First-Time Homebuyers' Tax Credit Act of 2003. This letter is written on behalf of SFB and all of its LaSalle Bank Corporation ("LBC") affiliates.

LBC is a subsidiary of ABN AMRO Bank N.V. ("Bank") which is headquartered in Amsterdam, the Netherlands. The Bank has over \$519 billion in assets, approximately 111,000 employees, and a network of approximately 3,500 offices in over 70 countries and territories. The Bank maintains several branches, agencies and offices in the United States. In addition, ABN AMRO Incorporated, a full-service investment banking, advisory, and brokerage firm, headquartered in New York, New York, is also a subsidiary of the Bank.

LBC is the financial holding company for the U.S. domestic banking operations of the Bank and is headquartered in Chicago. LBC is among the largest foreign financial holding companies in North America with \$90 billion in assets. The U.S. operations of the Bank include LaSalle Bank National Association, located in Chicago, Illinois, and Standard Federal Bank National Association, located in Troy, Michigan. These banks maintain over 400 offices in Illinois, Michigan, and Indiana.

The advantages of home ownership are both obvious and clearly instrumental in providing a secure lifestyle to our citizens. Owning one's own home is the primary source of wealth building for most Americans. While rents and other living expenses increase with inflation, the monthly mortgage payment can remain constant, and in relative terms will become an even smaller portion of the family's financial obligations over time.

An additional benefit to home ownership is the mortgage interest tax deduction. Home owners can use the money they save on taxes to meet other family expense, such as education and health care, benefits which are not available to renters.

We want to express our strong support for the concept of expanding homeownership opportunities contained in the proposed First-Time Homebuyers' Tax Credit Act of 2003, which you have been instrumental in bringing up for Congressional approval. This legislation has the potential to provide a significant opportunity for home ownership to many families and individuals who are not able to meet the financial burden of down

payment and closing costs. The First Time Homebuyers' Tax Credit, perhaps used in conjunction with other available federal, state, and local homebuyers' incentive programs, will bring the dream of owning one's own home well within the grasp of many additional people.

We understand that some details of the program, particularly as it relates to the transfer of the tax credit to a lender, remain to be worked out. However, we are supportive of the concept of the tax credit and of income limits for participation.

We appreciate the opportunity to comment on this important legislation and congratulate you for providing leadership to this effort. We hope that our comments and our support will assist in bringing the tax credit program to fruition for the benefit of first time homebuyers.

Sincerely,

MARY M. FOWLIE,
Group Senior Vice President.

NATIONAL COMMUNITY
REINVESTMENT COALITION,
Washington, DC, March 18, 2003.

Hon. DEBBIE A. STABENOW,
*Senate Hart Building,
U.S. Senate, Washington DC.*

DEAR SENATOR STABENOW: On behalf of the National Community Reinvestment Coalition (NCRC) and our over 600 member organizations, we would like to express our most sincere gratitude for taking time out of your busy schedule to participate in our Congressional Luncheon held on Thursday, March 13, 2003 at the Senate Hart Building.

Our National Community Reinvestment Coalition (NCRC) membership and staff truly enjoyed your encouraging and well-stated remarks. In addition, we are truly grateful to you regarding your leadership in authoring "The First Time Homebuyers Tax Credit Act of 2003", and we applaud you as a champion for this cause. We would like for you to know that we stand willing and anxious to assist you in the introduction of this bill in the 108th Congress.

Again, thank you for your pioneering spirit and continued support in assisting those who have encountered economic injustices. If NCRC can further assist you in eradicating these causes, please do not hesitate to contact me directly or our Director of Legislative and Regulatory Affairs, Crystal Ford, at (202) 628-8866.

Sincerely,

JOHN TAYLOR,
President and CEO.

NATIONAL CONGRESS FOR
COMMUNITY ECONOMIC DEVELOPMENT,
Washington, DC, April 25, 2003.

Hon. DEBBIE STABENOW,
*U.S. Senator, Hart Senate Office Building,
Washington, DC.*

DEAR SENATOR STABENOW: The National Congress for Community Economic Development (NCCED), on behalf of its more than 700 member community development corporations (CDCs) nationwide, supports the proposed Homeownership Tax Credit bill to be introduced by Senator Gordon Smith and you.

The proposed legislation is innovative because it provides homebuyers with the ability to transfer their tax credit to the lender at closing in order to offset downpayment and closing costs. Downpayment and closing costs have consistently been one of the greatest barriers to homeownership for low and moderate-income families.

NCCED is the national trade association representing more than 3,600 CDCs nationwide. We were founded in 1970 and since have advocated for the community economic development industry, whose work creates

wealth, builds healthy and sustainable communities, and achieves lasting economic viability. NCCED fulfills its mission of service to its members working in disinvested urban and rural communities through education, resource development, advocacy, networking, training, technology assistance, policy initiatives, and strategic partnerships.

NCCED's annual conference will be held this year in Detroit, Michigan on October 9 and 10, 2003. We would welcome the opportunity for you to share your thoughts with the expected 500 conference attendees who will be there to learn from the successes of Detroit's community development corporations.

Please contact me at (202) 289-9020 if you would like more information. We look forward to working with you on policy issues related to community revitalization.

Sincerely,

ROY O. PRIEST,
President and CEO.

THE HOUSING PARTNERSHIP
NETWORK,
Boston, MA, May 12, 2003.

Senator DEBORAH STABENOW,
*Hart Senate Office Building,
Washington, DC.*

DEAR SENATOR STABENOW: On behalf of the Housing Partnership Network, I would like to extend our support for your proposed Homeownership Tax Credit Act of 2002. This legislation would authorize a one-time tax credit of up to \$3,000 for individuals and \$6,000 for married couples to help pay downpayment and closing costs for eligible first-time homebuyers.

The lack of funds for downpayment and closing costs is a significant barrier for many lower income families who wish to purchase a home in communities throughout the country. The proposed homeownership credit is a particularly innovative solution to help families overcome this obstacle because of the transferability feature. By allowing buyers to transfer the credit to their mortgage lender at closing, the credit can provide an immediate infusion of cash to help the family finance the home purchase.

Founded in 1990, the Housing Partnership Network is a national membership intermediary for regional nonprofit housing partnerships. The Network currently has 77 members operating in 37 states. (The full membership list is attached.) The Network and our members sponsor a range of programs to provide counseling, mortgage finance, and downpayment assistance to promote affordable homeownership opportunities for low and moderate income families. The Network's members have provided homeownership counseling to over 225,000 families and have developed or rehabilitated 200,000 homes.

The Network is a national funding intermediary for the HUD Housing Counseling Program, and has provided \$8 million to support the counseling programs of 35 organizations over the last eight years. Focused primarily on homebuyer education, the program underwrites a range of services, including post-purchase, foreclosure prevention, and reverse equity mortgage counseling. There are also homeless assistance and renter counseling components.

Our member that operates in the Washington, DC area, the Community Development and Preservation Corporation, is familiar with the federally authorized homeownership tax credit in the District of Columbia. This program has been quite successful and your bill would extend this benefit to many other communities. The innovative

transferability feature which you have included in the legislation will make this resource even more useful to first time homebuyers.

The proposed credit is a creative approach to use the tax system to facilitate homeownership for lower income families. As this bill makes its way through the legislative process, we would recommend that the income eligibility for the credit be more narrowly drawn to ensure the public resource is more efficiently targeted to lower income beneficiaries.

We appreciate the leadership you have provide in helping address the nation's affordable housing crisis, and look forward to working with you and your staff on this and other issues.

Sincerely,

THOMAS BLEDSOE,
President.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, May 21, 2003.

Hon. DEBORAH STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATOR STABENOW: On behalf of the National Council of La Raza (NCLR), I write in support of the First-Time Homebuyers' Tax Credit Act of 2003. NCLR is the nation's largest Hispanic constituency-based organization, representing more than 37 million Latinos nationwide. The opportunity to become a homeowner is essential to NCLR's mission to promote economic mobility and financial stability within the Hispanic community.

As you may know, Latino representation within the homebuying market is increasing, accounting for 16.3% of all new homebuyers from 1995 to 2000. That said, we remain concerned that the rate of Hispanic homeownership, 48% continues to lag behind the national average of 68%.

Homeownership is often the largest and single most important asset for a family, building wealth and improving community stability. Further initiatives that facilitate homeownership opportunities are essential for improving Hispanic and low-income neighborhoods. Too many working Latino families are unable to save enough money for closing costs and downpayments, and are barred from attaining the American dream of homeownership. Legislation such as yours will break down barriers to homeownership, of which affordability is a major component.

NCLR looks forward to working with you on this and other innovative affordable housing efforts. Please contact Janis Bowdler, Housing Policy Analyst, (202) 776-1748, to discuss further ways in which we can work together on these important issues.

Sincerely,

RAUL YZAGUIRRE,
President/CEO.

NATIONAL ASSOCIATION OF
AFFORDABLE HOUSING LENDERS,
March 12, 2003.

Hon. DEBBIE A. STABENOW,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR STABENOW: The National Association of Affordable Housing Lenders (NAAHL), which represent America's leaders in community lending and investment, strongly supports the proposed First-Time Homebuyers' Tax Credit Act of 2003, to help working families buy their first home through a tax credit to help cover the downpayment and closing costs.

NAAHL is the only association devoted to increasing private capital investment in low- and moderate-income communities. NAAHL represents 200 organizations that are leaders in lending and investing, including more

than 70 insured depository institutions, 45 non-profit providers and 800 individuals. Members include the who's who of private sector lenders and investors in affordable housing and community development: banks, thrifts, insurance companies, community development corporations, mortgage companies, loan consortia, financial intermediaries, pension funds, foundations, local and national nonprofits, and public agencies.

As you well know, the number of working families with critical housing needs has continued to grow in recent years, and working families have identified the lack of affordable housing as one of their biggest problems. The First-Time Homebuyers' Tax Credit Act would make it significantly easier for many households to realize the American dream of homeownership by providing them with a valuable resource for overcoming one of the biggest barriers to homeownership—the cost of a downpayment and closing costs.

The proposed legislation evolves from longstanding public policy to create incentives to homeownership because of the inherent benefits of homeownership for both individuals and society. Your bill effectively complements the existing mortgage interest tax deduction—which saves families thousands of dollars for other necessary expenditures after a home has been acquired—by providing a tax credit that facilitates the first-time purchase of a home for working families. The legislation also addresses another key concern, narrowing the homeownership gap between the lowest and highest income groups, and among different races.

NAAHL and our member companies look forward to working closely with you to enact this legislation. We share your goal of expanding homeownership opportunities, and sincerely appreciate your commitment to helping make housing more affordable.

Sincerely,

JUDY KENNEDY,
President.

MANUFACTURED HOUSING INSTITUTE,
March 18, 2003.

Hon. DEBBIE A. STABENOW,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR STABENOW: The Manufactured Housing Institute (MHI) supports the "First-Time Homebuyers' Tax Credit Act of 2003," which we understand you will be introducing in the near future.

This legislation would permit a one-time tax-credit to first-time homebuyers which can be used for down payment and closing costs in connection with the purchase of a principal residence. This will help credit-worthy homebuyers overcome the biggest impediment to purchasing a first home today—the accumulation of sufficient funds to finance the down payment and closing costs required at loan settlement.

If structured properly, this program will help credit-worthy low- and moderate-income homebuyers to purchase and remain in manufactured homes for many years to come.

Sincerely,

CHRIS STINEBERT,
President, Manufactured Housing Institute.

FANNIE MAE,
May 13, 2003.

Hon. DEBBIE STABENOW,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR STABENOW: I understand that you will be introducing a bill shortly that would provide for a one-time tax credit for first time homebuyers in America's lowest tax brackets.

Your legislation, The Homeownership Tax Credit Act of 2003, providing a tax credit of

up to \$3,000 for moderate-income individuals, is the kind of assistance low and moderate income families can harness to better afford the American Dream of homeownership.

As you know, the availability of funds for a downpayment is a key barrier to homeownership. Our National Housing Survey found that 32 percent of Americans say they would have difficulty making a downpayment for the purchase of a home. We at Fannie Mae support the use of tax credits to promote homeownership and appreciate your work in this regard.

We look forward to continuing our work with you to increase the opportunity for more Americans to own homes of their own.

Sincerely,

WILLIAM R. DALEY.

Washington, DC, May 12, 2003

Hon. DEBBIE A. STABENOW,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR STABENOW: I am writing to commend your efforts in introducing the "FIRST-TIME HOMEBUYERS' TAX CREDIT ACT OF 2003". Your legislation providing a tax credit to assist first-time homebuyers with closing costs or down payment assistance is very important.

Because of innovative products and services offered by the banking industry, the United States has achieved the highest homeownership rate in our nation's history. Nevertheless, as you have recognized, millions still face barriers to homeownership because of difficulty in accumulating an adequate down-payment or because of costs associated with the loan transaction. By providing assistance in the form of a Federal tax rebate, paid before a borrower closes on a loan, your legislation can make homeownership a reality for many more Americans.

Thank you for your leadership on this issue.

Sincerely,

FLOYD E. STONER,
EXECUTIVE DIRECTOR,
CONGRESSIONAL
RELATIONS AND PUBLIC POLICY,
American Bankers Association.

FREDDIE MAC,
Washington, DC, May 5, 2003.

Hon. DEBBIE STABENOW,
U.S. Senate, Senate Hart Office Building,
Washington, DC.

DEAR SENATOR STABENOW: Freddie Mac is pleased to support your legislation. The Homeownership Tax Credit Act of 2003. We appreciate your extraordinary leadership in broadening homeownership opportunities for America's working families and look forward to continuing to work with you to achieve this common goal.

The Homeownership Tax Credit Act addresses one of the primary barriers that many working families and other Americans face in trying to buy a home, the cost of a down payment and the closing costs involved in the purchase of a home. Your legislation takes an innovative approach to knocking down this barrier to homeownership by providing a tax credit that the taxpayer can either claim in the year after he or she buys a first home or the taxpayer can transfer the credit directly to a lender at closing.

At Freddie Mac, we work to help America's families realize the dream of homeownership, by making low-cost mortgage financing available to families every day. Freddie Mac has made mortgage financing available for more than 27 million homes. We are strongly committed to improving the quality of life for homeowners and renters by making decent, accessible housing a reality for America's families.

As a member of the Senate Committee on Banking, Housing and Urban Affairs, you have consistently demonstrated your outstanding support for increasing homeownership in America, and we look forward to working with you to help America's families realize the American Dream of homeownership.

Sincerely,

DWIGHT FETTIG,
Director, Congressional Relations.

NATIONAL AMERICAN INDIAN HOUSING COUNCIL, OFFICE OF GOVERNMENTAL AFFAIRS,

Washington, DC, May 8, 2003

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATOR STABENOW: I write today to let you know that you have the support of the National American Indian Housing Council for your Homeownership Tax Credit bill. We will be watching for when the bill is introduced so we can be sure to inform our members.

The National American Indian Housing Council is a national membership organization representing over 400 of the 564 federally-recognized tribes and their tribally designated housing entities on low-income housing, mortgage lending, finance and economic development issues. We currently have ten member tribes from your home state of Michigan.

Although much of our effort goes to helping tribal housing agencies build and finance homes for tribal members where the real estate market is nearly non-existent, we are always looking to help those tribal members that are ready and able for homeownership, but are driven away by high down-payments and closing costs associated with buying a home. Your idea to offer a transferable tax credit to first-time homebuyers would be very helpful. We believe in the benefits of homeownership and support your effort for making it less cumbersome for lower income Americans.

Please do not hesitate to contact me for further information or for any assistance you might need in the passage of this legislation.

Sincerely,

RUSSELL SOSSAMON,
Chairman.

JUNE 3, 2003.

Hon. DEBBIE STABENOW,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR STABENOW: I want to take this opportunity to express America's Community Bankers' support for your initiative to provide Americans the opportunity to own their own home. The First Time Homebuyers' Tax Credit Act of 2003 is greatly needed to address the current affordable housing crisis in this country.

Homeownership is an important goal for ACB. Our members originate more than 25 percent of all U.S. mortgages. This legislation will assist first-time homebuyers and lenders by converting federal income tax credits into cash for down payments and closing fees. We support giving qualified first-time buyers the option of either handing over their credit to their lenders or using it later to reduce their own personal income taxes.

Over the years, ACB members have helped people with owning a home. Your initiative will create additional opportunities for our members to continue assisting first-time homebuyers in securing a mortgage.

ACB urges your colleagues in the House of Representatives to support this legislation and increase the number of new American

homeowners. We applaud your efforts in offering a solution to a problem many Americans face.

Thank you for your leadership on this issue.

Sincerely,

ROBERT R. DAVIS,
Executive Vice President and Managing
Director, Government Relations.

Earlier today, at a press conference, Senator SMITH and I were also joined by the Mortgage Bankers Association of America and we have received positive comments from the National Association of Homebuilders about my legislation.

Clearly, the breadth and diversity of support is strong for this legislation.

This is a bold and aggressive effort to reach out to a large number of working families to help them get into this first home.

The Joint Committee on Taxation has estimated that up to 16.8 million working people would get into their first home over the next seven years because of this new tax credit.

People like Christine Nelson, with whom I met this morning. Christine is a working mom. She works as an administrative assistant for a national association. She is carefully saving up to buy her first home.

In addition to supporting her daughter, however, Christine has student loans that she is paying for.

These multiple obligations make it difficult for her to come up with that \$9,000 I mentioned earlier.

The \$3,000 tax credit she is eligible for would make a tremendous difference in her life. It would get her and her daughter into that first home much faster.

We are working to send a message to Christine and other people all over the country that if you are working hard to save up enough to get into that first home, the Federal Government will make a strategic investment in your family—it will offer a hand up.

This is not unlike what we already do through the mortgage interest tax deduction for millions of people who are fortunate enough already to own their own home.

We certainly won't do all the hard work for you. You must be frugal and save and do most of the work yourself, but we, in Congress, understand that it is good for America to enhance homeownership.

We also understand that this sort of investment in working families stimulates the economy.

No one can deny that when the First Time Homebuyers' Tax Credit is enacted and used by millions of people, every single time the credit is used, it will be stimulative.

Why?

Because it means someone bought a house. And that generates economic activity for multiple small business people. Realtors. Lenders. House appraisers. Inspectors. Title insurers. And so on. And there is a ripple of economic activity by the new homeowners as they fix up their new homes and get settled in.

Housing has been such a bright light in the sluggish economy we've faced for the last few years. My bill is designed to ensure that the housing sector remains a strong component of our economy.

Finally, let me close by emphasizing how happy and proud I am that this tax legislation is bipartisan. In a closely divided Senate, and a closely divided Congress, it is so important to work across the aisle and Senator SMITH, who is a real champion for good housing policy, is someone I want to work closely with on this bill and other important housing legislation. He understands how housing tax benefits help build strong communities and provide economic security for millions of families.

I am committed to seeing this legislation passed. And, I welcome the chance to work with all of my colleagues to see the dream of homeownership expanded to all people.

Home. Sentimentally, it is one of the warmest words in the English language. Economically, it is the key word in bringing millions of families in from the cold and letting them begin building wealth for themselves and their family.

I ask unanimous consent that the text of this legislation 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. 1175

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 "First-Time Homebuyers' Tax Credit Act of 2003".

SEC. 2. REFUNDABLE CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the United States during any taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 10 percent of the purchase price of the residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—

"(A) IN GENERAL.—The credit allowed under subsection (a) shall not exceed the excess (if any) of—

"(i) \$3,000 (\$6,000 in the case of a joint return), over

"(ii) the credit transfer amount determined under subsection (c) with respect to the purchase to which subsection (a) applies.

"(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after December 31, 2003—

"(i) the \$3,000 amount under subparagraph (A) shall be increased by an amount equal to \$3,000, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting '2002' for '1992' in subparagraph (B) thereof, and

“(ii) the \$6,000 amount under subparagraph (A) shall be increased to twice the \$3,000 amount, as adjusted under clause (i) for the taxable year.

If the \$3,000 amount as adjusted under clause (i) is not a multiple of \$10, such amount shall be rounded to the nearest multiple of \$10.

“(2) TAXABLE INCOME LIMITATION.—

“(A) IN GENERAL.—If the taxable income of the taxpayer for any taxable year exceeds the maximum taxable income in the table under subsection (a), (b), (c), or (d) of section 1, whichever is applicable, to which the 25 percent rate applies, the dollar amounts in effect under paragraph (1)(A)(i) for such taxpayer for the following taxable year shall be reduced (but not below zero) by the amount of the excess.

“(B) CHANGE IN RETURN STATUS.—In the case of married individuals filing a joint return for any taxable year who did not file such a joint return for the preceding taxable year, subparagraph (A) shall be applied by reference to the highest taxable income of either such individual for the preceding taxable year.

“(c) TRANSFER OF CREDIT.—

“(1) IN GENERAL.—A taxpayer may transfer all or a portion of the credit allowable under subsection (a) to 1 or more persons as payment of any liability of the taxpayer arising out of—

“(A) the downpayment of any portion of the purchase price of the principal residence, and

“(B) closing costs in connection with the purchase (including any points or other fees incurred in financing the purchase).

“(2) CREDIT TRANSFER MECHANISM.—

“(A) IN GENERAL.—Not less than 180 days after the date of the enactment of this Act, the Secretary shall establish and implement a credit transfer mechanism for purposes of paragraph (1). Such mechanism shall require the Secretary to—

“(i) certify that the taxpayer is eligible to receive the credit provided by this section with respect to the purchase of a principal residence and that the transferee is eligible to receive the credit transfer,

“(ii) certify that the taxpayer has not received the credit provided by this section with respect to the purchase of any other principal residence,

“(iii) certify the credit transfer amount which will be paid to the transferee, and

“(iv) require any transferee that directly receives the credit transfer amount from the Secretary to notify the taxpayer within 14 days of the receipt of such amount.

Any check, certificate, or voucher issued by the Secretary pursuant to this paragraph shall include the taxpayer identification number of the taxpayer and the address of the principal residence being purchased.

“(B) TIMELY RECEIPT.—The Secretary shall issue the credit transfer amount not less than 30 days after the date of the receipt of an application for a credit transfer.

“(3) PAYMENT OF INTEREST.—

“(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall pay interest on any amount which is not paid to a person during the 30-day period described in paragraph (2)(B).

“(B) AMOUNT OF INTEREST.—Interest under subparagraph (A) shall be allowed and paid—

“(i) from the day after the 30-day period described in paragraph (2)(B) to the date payment is made, and

“(ii) at the overpayment rate established under section 6621.

“(C) EXCEPTION.—This paragraph shall not apply to failures to make payments as a result of any natural disaster or other circumstance beyond the control of the Secretary.

“(4) EFFECT ON LEGAL RIGHTS AND OBLIGATIONS.—Nothing in this subsection shall be construed to—

“(A) require a lender to complete a loan transaction before the credit transfer amount has been transferred to the lender, or

“(B) prevent a lender from altering the terms of a loan (including the rate, points, fees, and other costs) due to changes in market conditions or other factors during the period of time between the application by the taxpayer for a credit transfer and the receipt by the lender of the credit transfer amount.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) FIRST-TIME HOMEBUYER.—

“(A) IN GENERAL.—The term ‘first-time homebuyer’ has the same meaning as when used in section 72(t)(8)(D)(i).

“(B) ONE-TIME ONLY.—If an individual is treated as a first-time homebuyer with respect to any principal residence, such individual may not be treated as a first-time homebuyer with respect to any other principal residence.

“(C) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of married individuals who file a joint return, the credit under this section is allowable only if both individuals are first-time homebuyers.

“(D) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence—

“(i) the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and

“(ii) the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed the amount in effect under subsection (b)(1)(A) for individuals filing joint returns.

“(2) PRINCIPAL RESIDENCE.—The term ‘principal residence’ has the same meaning as when used in section 121. Except as provided in regulations, an interest in a partnership, S corporation, or trust which owns an interest in a residence shall not be treated as an interest in a residence for purposes of this paragraph.

“(3) PURCHASE.—

“(A) IN GENERAL.—The term ‘purchase’ means any acquisition, but only if—

“(i) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only the individual’s spouse, ancestors, and lineal descendants), and

“(ii) the basis of the property in the hands of the person acquiring it is not determined—

“(I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

“(II) under section 1014(a) (relating to property acquired from a decedent).

“(B) CONSTRUCTION.—A residence which is constructed by the taxpayer shall be treated as purchased by the taxpayer.

“(4) PURCHASE PRICE.—The term ‘purchase price’ means the adjusted basis of the principal residence on the date of acquisition (within the meaning of section 72(t)(8)(D)(iii)).

“(e) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

“(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

“(g) PROPERTY TO WHICH SECTION APPLIES.—

“(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

“(A) the taxpayer purchases the residence on or after January 1, 2003, and before January 1, 2010, or

“(B) the taxpayer enters into, on or after January 1, 2003, and before January 1, 2010, a binding contract to purchase the residence, and purchases and occupies the residence before July 1, 2011.”

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016 of the Internal Revenue Code of 1986 (relating to general rule for adjustments to basis) is amended by striking “and” at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting “, and”, and by adding at the end the following new paragraph:

“(29) in the case of a residence with respect to which a credit was allowed under section 36, to the extent provided in section 36(f).”

(2) Section 1324(b)(2) of title 31, United States Code, is amended by striking “or” before “enacted” and by inserting before the period at the end “, or from section 36 of such Code”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 36 and inserting the following new items:

“Sec. 36. Purchase of principal residence by first-time homebuyer.”

“Sec. 37. Overpayments of tax.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

By Mr. BYRD:

S. 1176. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

Mr. BYRD. Mr. President, today I am introducing legislation designed to fulfill an important promise made by the Federal Government to the people of my State and my region some 38 years ago. I am speaking of the promise to build and complete a network of highways through the Appalachian region known today as the Appalachian Development Highway System or ADHS. I look forward to working with my fellow Senators to have my legislation included in the measure to reauthorize the Federal-aid Highway Program, one of the most important, if not the most important, pieces of legislation which will be considered during this Congress. The Federal-aid Highway Program is at the very core of the Federal infrastructure investment exercise.

On September 30 of last year, our very capable Federal Highway Administrator, Ms. Mary Peters, testified before the Committee on Environment and Public Works on the condition and performance of our National Highway System. The Administration’s Conditions and Performance Report has

again reminded us that a great deal more needs to be invested in our infrastructure if we are not to fall further and further behind in stemming the deterioration of our nation's highways and bridges and alleviating congestion on our nation's roads.

At the September 30 hearing, Administrator Peters testified that, even in the wake of the historic funding increase accomplished through TEA-21, congestion on our roads continues to worsen. An investment in our highway infrastructure by all levels of government will have to increase by more than 65 percent or \$42.2 billion per year to actually improve the condition of our nation's highways. A funding increase of more than 17 percent or \$11.3 billion will be necessary simply to maintain the current inadequate conditions of our highway network, where more than one in four of our nation's bridges are classified as deficient.

Having served as both Chairman and Ranking Member of the Senate Appropriations Committee, I have sought to do my part by championing the highest level of Federal highway investment for all fifty States that is possible under our budget constraints. Earlier this year, I am pleased to report that the Senate prevailed in the conference with the House on the Omnibus Appropriations Bill for Fiscal Year 2003 and rejected every penny of the \$8.6 billion cut in highway funding proposed by President Bush. And just last month, I was pleased to join with Senators BOND and REID, the respective Chairman and Ranking Member of the Surface Transportation Subcommittee, in sponsoring a bipartisan amendment to the Budget Resolution for Fiscal Year 2004 that boosted funding for our Federal-aid Highway Program by several billion dollars. That amendment commanded 79 votes on the Senate floor.

While serving in the other body, I had the great privilege of casting my vote in favor of establishing the Interstate highway System back in 1958. However, in 1964, it was recognized by the first Appalachian Regional Commission that while the Interstate Highway System was slated to provide historic economic benefits to most of our Nation, the system was designed to bypass the Appalachian Region due to the extremely high cost associated with building Highways through Appalachia's rugged topography. As a result, the construction of the interstates would have had the detrimental effect of drawing passengers and freight, and the accompanying economic benefits, away from the Appalachian Region.

In 1965, the Congress adopted the Appalachian Regional Development Act that promised a network of modern highways to connect the Appalachian Region to the rest of the Nation's highway network and, even more importantly, the rest of the Nation's economy. Absent the Appalachian Development Highway System, my region of the country would have been left solely

with a transportation infrastructure of dangerous, narrow, winding roads which follow the path of river valleys and stream beds between mountains. These roads are still, more often than not, two-lane roads that are squeezed into very limited rights-of-way. They are characterized by low travel speeds and long travel distances and are often built to inadequate design standards.

One of the observations contained in Administrator Peters' testimony back in September that especially caught my eye was her statement that "the condition of higher-order roads, such as interstates, has improved considerably since 1993 while the condition on many lower-order roads has deteriorated." It appears that the pattern of road conditions is beginning to mirror the distribution of wealth in our country, whereby the rich are getting richer while the poor get poorer. That observation is most pertinent when you consider the challenge of completing the Appalachian Development Highway System.

We have virtually completed the construction of the Interstate Highway System and have moved on to many other important transportation goals. However, the people of my region are still waiting for the Federal Government to live up to its promise, made some 38 years ago, to complete the ADHS. The system is still less than 80 percent complete and I regret to observe that my home State of West Virginia is below the average for the entire Appalachian Region with only 72 percent of its mileage complete and open to traffic.

The rationale behind the completion of the Appalachian Development Highway System is no less sound today than it was in 1964. Unfortunately, there are still children in Appalachia who lack decent transportation routes to school; and there are still pregnant mothers, elderly citizens and others who lack timely road access to area hospitals. There are thousands upon thousands of people who cannot obtain sustainable well-paying jobs because of poor road access to major employment centers. The entire status of the Appalachian Development Highway System is laid out in great detail in the Cost to Complete Report for 2002 recently completed by the Appalachian Regional Commission. This is the most comprehensive report on the status of the Appalachian Development Highway System to date and I commend the staff of the Appalachian Regional Commission for their hard work on this report. The last report was completed in 1997 just prior to Congressional consideration of TEA-21.

The enactment of TEA-21 signaled a new day in the advancement of the Appalachian Development Highway System. Through the work of the Committee on Environment and Public Works, the House Transportation and Infrastructure Committee, and the Administration, we took a great leap forward by authorizing direct contract au-

thority from the Highway Trust Fund to the States for the construction of the ADHS. Up until that point, funding for the Appalachian Development Highway System had been limited to uncertain and inconsistent general fund appropriations. By providing the States of the Appalachian Region with a consistent and predictable source of funds to move forward on its uncompleted ADHS segments, TEA-21 served to reinvigorate our efforts to honor the promise made to the people of the Appalachian Region.

As is made clear in the Cost to Complete Report, this initiative has been a great success. States are making greater progress toward the completion of the system than they have in any five-year segment in recent memory. Since the last Cost to Complete Report, 183 miles of the system have been opened to traffic and we have successfully brought down the cost to complete the system by roughly \$1.7 billion in Federal funds.

Back when we were debating TEA-21, some questions were asked as to how committed the States would be to completing the unfinished segments to the Appalachian Development Highway System. I am pleased to report that the 13 States, to date, have succeeded in obligating just under 90 percent of the obligation authority that has been granted to them for the completion of the system. A 90-percent obligation rate compares quite favorably to some of the other transportation programs through which the States were granted multiple years to obligate their funds.

According to the ARC's Cost to Complete Report, the remaining Federal funds needed to complete the ADHS are now estimated to be \$4.467 billion. When adjusted for inflation over the life of the next highway bill, using the standard inflation calculation for highway projects, a total of \$5.04 billion will need to be authorized to complete the system. That is a lot of money and I believe that figure deserves some explanation.

The considerable cost of completing the last 20 percent of the ADHS is explained by the fact that the easiest segments of the system to build have already been built. Much of the costs associated with completing the most difficult unfinished segments are driven by the requirement to comply with other Federal laws, especially the laws requiring environmental mitigation measures when building new highways through rural areas. While the \$5.04 billion figure may seem large to some of my colleagues, I would remind them the last highway bill authorized more than \$218 billion in federal infrastructure investment over six years. It is my sincere hope and expectation that the next highway bill will authorize an even greater amount.

Of critical importance to this debate is the fact that the unfinished segments of the ADHS represent some of the most dangerous and most deficient roadways in our entire Nation. Often lost in our debate over the necessity to

invest in our highways is the issue of safety. The Federal Highway Administration has published reports indicating that substandard road conditions are a factor in 30 percent of all fatal highway accidents. I am quite certain that the percentage is a great deal higher in the Appalachian Region.

The Federal Highway Administration found that upgrading two-lane roads to four-lane divided highways decreased fatal car accidents by 71 percent and that the widening of traffic lanes has served to reduce fatalities by 21 percent. These are precisely the kind of road improvements that are funded through the ADHS. In my state, the largest segment of unfinished Appalachian Highway, if completed, will replace the second most dangerous segment of roadway in West Virginia. So, even those who would question the wisdom of completing these highways in the name of economic development should take a hard look at the fact that the people of rural Appalachia are taking their lives in their hands every day as they drive on dangerous roads.

It is time for this Congress, in concert with the Administration, to take the last great leap forward and authorize sufficient contract authority to finally complete the Appalachian Development Highway System. If we enact another six-year highway bill with sufficient funds to complete the system, we will finally pay the full costs of the ADHS almost 45 years after the system was first promised to the people of my region. The legislation I am introducing today, the "Appalachian Development Highway System Completion Act," will provide sufficient contract authority to complete the system. Importantly, it will guarantee that the states of the Appalachian Region do not pay a penalty, either through the distribution of minimum allocation funds, or the distribution of obligation limitation, for receiving sufficient funds to complete the Appalachian system.

I am very pleased that this Administration has taken on the goal of completing the ADHS. In her letter accompanying the Cost to Complete Report, Administrator Peters said "the completion of the ADHS is an important part of the mission of the Federal Highway Administration. We consider the accessibility, mobility and economic stimulation provided by the ADHS to be entirely consistent with the goals of our agency." Ms. Peters further stated that the Appalachian Regional Commission's 2002 Cost to Complete Report, "provides a sound basis for apportioning future funding to complete the system." I thank Mary Peters and the entire Federal Highway Administration for their leadership on this issue and I look forward to working with Ms. Peters and her agency to ensure that this commitment is borne out in the transportation reauthorization legislation that is developed by the Congress.

Completion of a new highway bill will be a mammoth task for this Con-

gress. As I look back over the many years of my public career, one of the accomplishments of which I am most proud was my amendment providing an additional \$8 billion in funding to break the logjam during the debate on the Intermodal Surface Transportation Efficiency Act in 1991. Another was my sponsorship of the Byrd-Gramm-Baucus-Warner Amendment during the Senate debate of TEA-21 in 1998. That effort resulted in some \$26 billion in funding being added to that bill and put us on a path to historic funding increases for our nation's highway infrastructure. I look forward again to working with my fellow Senators on completion of a bill that makes the necessary investments in our nation's highways, not just in the Appalachian Region, but across our entire country.

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

S. 1177. A bill to ensure the collection of all cigarette taxes, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today, with my colleague Senator Kohl, to introduce S. 1177, the Prevent All Cigarette Trafficking, PACT Act of 2003. I do so because of my concern that contraband cigarettes contribute heavily to the profits of organized crime syndicates, specifically global terrorist organizations. Furthermore, illegal cigarette trafficking has had a damaging impact on the economies of numerous States.

Organized crime syndicates typically purchase cigarettes in States with low taxes and transport the product into states with high taxes to illegally sell to small retailers below market costs. The Internet has exacerbated this problem. Frequently, these syndicates produce counterfeit State and city tax stamps in order to make it less risky for these small retailers to sell them to consumers. For example, Virginia has a per pack tax of 2.5 cents, while New York City has a per pack tax of \$3. Organized crime syndicates, such as those affiliated with the Lebanon-based terrorist organization, Hezbollah, have been known to purchase and transport cigarettes in tractor-trailers up Interstate 95 from Virginia to New York for resale. As one can easily see, a State such as New York is losing millions of dollars in revenue each year because of unpaid taxes on these contraband cigarettes, while terrorist organizations are making millions in profits.

Recent articles in the Washington Post and New York Post revealed that a cigarette-smuggling ring, which allegedly purchased over 70,000 cartons from undercover Federal agents in a sting operation last fall, does in fact have ties to Hezbollah. If this group had been successful in its racketeering scheme, it would have amounted to a loss of nearly \$2.4 million in tax revenue for New York and millions in profits for Hezbollah, allowing this organization to finance their terrorist activities.

Members of an organized crime syndicate arrested in Charlotte, NC last year for smuggling contraband cigarettes from North Carolina to Michigan were also using their illegal profits to aid Hezbollah, according to the Charlotte Observer. The Buffalo News reported that one of the members of the Charlotte syndicate, Mohamad Hammoud, allegedly has ties to a recently arrested Detroit-area syndicate, which includes two women from the Seneca Nation of Indians' Cattaraugus reservation. Because the syndicate transported the cigarettes from North Carolina to Michigan for resale, Michigan lost \$12.50 per carton in sales and excise taxes. These examples illustrate that cigarette smuggling is not only a lucrative business for organized crime but also detrimental to the budgets of many states.

The PACT Act attacks the problem of illegal cigarette trafficking by these organized crime syndicates through its strengthening of the Jenkins Act of 1949, 15 U.S.C. §§375-378, 2003. In its current form, the Jenkins Act requires tobacco vendors to register with each State tax administrator in which they sell cigarettes, as well as file a monthly report that provides shipment information within each State. Failure to do so is a misdemeanor. Compliance with this statute enables States to collect cigarette excise, sales and use taxes from consumers. This legislation, which the distinguished Senator from Wisconsin and I are introducing, strengthens the Act by increasing the reporting requirements first established under Jenkins, expressly including cigarette orders placed through the Internet, lowering the threshold for cigarettes to be treated as contraband from 60,000 to 10,000, increasing the criminal penalty for violating the Act to a felony and creating a substantial civil penalty.

The PACT Act will also provide State attorneys general with the option to bring actions in federal court, which is a tool desired by many states. According to a GAO report from last year on Internet cigarette sales, online cigarette sellers simply do not comply with the Jenkins Act requirements—in fact most of them defiantly state that they do not comply with the Jenkins Act. Many State attorneys general realize that this practice is unfair not only to their individual States, but also to the brick and mortar retailers located in their state, placing these businesses at an unfair commercial disadvantage. Providing these state attorneys general with the ability to bring actions against these out-of-state Internet vendors for lost revenue is crucial in leveling the playing field and collecting the rightful revenue for states like Washington, California, New York, Wisconsin, Michigan and Rhode Island.

I ask my colleagues to join Senator KOHL and me in our efforts to help stop the funding of global terrorist organizations and ensure that States are able

to recover lost revenue by co-sponsoring and supporting the PACT Act of 2003.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 158—COMMENDING THE UNIVERSITY OF VIRGINIA CAVALIERS MEN'S LACROSSE TEAM FOR WINNING THE 2003 NCAA DIVISION I MEN'S LACROSSE CHAMPIONSHIP

Mr. ALLEN (for himself, and Mr. WARNER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 158

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment and pride in their National Champion men's lacrosse team;

Whereas in 2003, the University of Virginia claimed its second National Championship in 5 years, with an overall season of 15 and 2;

Whereas the Cavaliers won the NCAA first round 19 to 8 against Mount St. Mary's, beat Georgetown 12 to 7 in the Quarterfinals, and Maryland 14 to 4 in the Semifinals;

Whereas the University of Virginia Cavaliers won the championship game by defeating the Johns Hopkins Blue Jays 9 to 7;

Whereas the University of Virginia team was led by A.J. Shannon with 4 goals, John Christmas with 2 goals, and received outstanding effort and support from Chris Rotelli and Billy Glading, while goalie Tillman Johnson had 13 saves and was selected Most Outstanding Player of the championship game;

Whereas every player on the Cavalier team contributed to their success in this championship season and they are Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Doug Brody, Patrick Buchanan, David Burman, Michael Culver, Jack deVilliers, Kyle Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Charlie Glazer, Zach Heffner, Brett Hughes, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morrissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskay, Derrick Preuss, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli, trainer Katie Serenelli, the team doctor, Dan Mistry, and manager Kristin Madl.

Whereas Head Coach Dom Starsia has coached the University of Virginia men's lacrosse team for 11 years, and has led the University of Virginia men's lacrosse team to the NCAA Tournament for a university-record 11th consecutive time;

Whereas Coach Starsia has led the team to a school record 15 wins this season;

Whereas Coach Starsia is 1 of only 3 coaches in college lacrosse history to win 100 games at 2 different colleges: the University of Virginia and Brown University; and

Whereas Coach Starsia and his coaching staff, including Assistant Coaches David Curry, Marc Van Arsdale, and Hannon Wright deserve much credit for the outstanding determination and accomplishments of their young team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the University of Virginia men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff,

and invites them to the United States Capitol Building to be honored;

(3) requests that the President recognize the achievements of the University of Virginia men's lacrosse team and invite them to the White House for an appropriate ceremony honoring a National Champion team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this resolution to the University of Virginia for appropriate display; and

(B) transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I men's lacrosse national championship team.

Mr. ALLEN. Mr. President, today I congratulate the University of Virginia Men's Lacrosse team for their victory in the NCAA Division 1 men's lacrosse championship with a 9 to 7 victory over the previously top-ranked Johns Hopkins University and submit a resolution expressing the congratulations of the United States Senate to these young men.

The University of Virginia Cavaliers Lacrosse Team captured their second National Championship title in five years, finishing the 2003 season with a record of 15 wins and 2 losses, a university record. Head Coach Don Starsia has coached the men's lacrosse team for the past 11 years and each year has led the team to the NCAA tournament; also a university record.

As a Cavalier myself, I want to express the pride felt by all students, faculty and alumni of the University of Virginia at this tremendous accomplishment by the men's lacrosse team. Coach Starsia and his coaching staff; Marc Van Arsdale, David Curry and Hannon Wright, deserve much of the credit for the accomplishment of these student athletes and should also be commended.

The members of the University of Virginia 2003 Men's Lacrosse team have indeed made their university proud and should be applauded for their leadership, both on and off the playing field. I congratulate Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Doug Brody, Patrick Buchanan, David Burman, John Christmas, Michael Culver, Jack deVilliers, Kyle Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Billy Glading, Charlie Glazer, Zach Heffner, Brett Hughes, Tillman Johnson, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morrissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskay, Derrick Preuss, Chris Rotelli, A.J. Shannon, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli, trainer Katie Serenelli, the team doctor, Dan Mistry, and manager Kristin Madl for their accomplishments.

I hope my colleagues will join with Senator WARNER and me to pass this Resolution recognizing the National Champion University of Virginia Men's Lacrosse team.

Mr. WARNER. Mr. President, it is with great pride that I, along with my colleague from Virginia, Mr. ALLEN,

come before you today. I come in support of a resolution submitted by Mr. ALLEN and myself commemorating the University of Virginia Men's Lacrosse Team, who defeated Johns Hopkins University for the 2003 NCAA National Championship last Monday. I would like to congratulate the head coach, Mr. Dom Starsia, his staff and the 41 young men on the UVA lacrosse team for a job well-done. The Cavaliers finished the season with an impressive record of 15 wins and 2 losses and had 8 players receive All-American Honors. Goalie, Tillman Johnson, received Most Outstanding Player honors for leading Virginia to victories over the University of Maryland and Johns Hopkins University during the NCAA tournament. These student-athletes deserve this chamber's recognition for their commitment to excellence through their dedication to the UVA lacrosse team and the academic rigors of the University of Virginia during this successful season. The people of Virginia take great pride in their state colleges and universities, and the success of the University of Virginia lacrosse team is a testament to the great accomplishments, both in the classroom and on the athletic field, made by Virginia schools during the past year.

The players follow: Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Doug Brody, Patrick Buchanan, David Burman, John Christmas, Michael Culver, Jack deVilliers, Kyl Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Billy Glading, Charlie Glazer, Zach Heffner, Brett Hughes, Tillman Johnson, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morrissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskey, Derrick Preuss, Chris Rotelli, A.J. Shannon, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli.

The coaches follow: Dom Starsia, David Curry, Marc Van Arsdale, Hannon Wright.

AMENDMENTS SUBMITTED & PROPOSED

SA 843. Mrs. FEINSTEIN proposed an amendment to amendment SA 539 proposed by Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, and Mr. BAUCUS) to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 844. Mrs. FEINSTEIN (for herself, Mr. NICKLES, Mr. MCCAIN, Mr. KYL, Mr. GREGG, Mr. WYDEN, Mr. LEAHY, Mr. SCHUMER, Mr. SUNUNU, and Mr. REED) proposed an amendment to amendment SA 539 proposed by Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, and Mr. BAUCUS) to the bill S. 14, supra.