1930 to clarify the adjustments to be made in determining export price and constructed export price.

S. 239

At the request of Mr. FRIST, the names of the Senator from New York (Mrs. CLINTON) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 239, a bill to amend the Public Health Services Act to add requirements regarding trauma care, and for other purposes.

S. 240

At the request of Mr. JOHNSON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 240, a bill to amend the Internal Revenue Code of 1986 to allow allocation of small ethanol producer credit to patrons of cooperative, and for other purposes.

S. 245

At the request of Mr. BROWNBACK, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 245, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 253

At the request of Mr. CAMPBELL, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 287

At the request of Mr. LEAHY, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 287, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 295

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 295, a bill to amend the Denali Commission Act of 1998 to establish the Denali transportation system in the State of Alaska.

S.J. RES. 2

At the request of Mr. CRAIG, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S.J. Res. 2, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget and protect Social Security surpluses.

S. RES. 28

At the request of Mr. BYRD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 28, a resolution expressing the sense of the Senate that the United Nations weapons inspectors should be given sufficient time for a thorough assessment of the level of compliance by the Government of Iraq with United Nations Security Council Resolution 1441 (2002) and that the United States should seek a United Nations Security Council resolution specifically authorizing the use of force before initiating any offensive military operations against Iraq.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 301. A bill to amend the Internal Revenue Code of 1986 to provide that reimbursements for costs of using passenger automobiles for charitable and other organizations are excluded from gross income, and for other purposes; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation today that would increase the mileage reimbursement rate for volunteers.

Under current law, when volunteers use their cars for charitable purposes, the volunteers may be reimbursed up to 14 cents per mile for their donated services without triggering a tax consequence for either the organization or the volunteers. If the charitable organization reimburses any more than that, they are required to file an information return indicating the amount, and the volunteers must include the amount over 14 cents per mile in their taxable income. By contrast, the mileage reimbursement level currently permitted for businesses is 36 cents per mile.

At the time when government is asking volunteers and volunteer organizations to bear a greater burden of delivering essential services, the 14 cents per mile limit is posing a very real hardship on charitable organizations and other nonprofit groups. I have heard from a number of people in Wisconsin on the need to increase this reimbursement limit.

At a listening session I held last summer, one organization, the Portage County Department on Aging, explained just how important volunteer drivers are to their ability to provide services to seniors in that county. The Department on Aging reported that in 2001, 54 volunteer drivers delivered meals to homes and transported people to medical appointments, meal sites, and other essential services. The Department noted that their volunteer drivers provided 4,676 rides, and drove nearly 126,000 miles. They also delivered 9,385 home-delivered meals, and nearly two-thirds of the drivers logged more than 100 miles per month in providing these needed services. Together, volunteers donated over 5,200 hours last year, and as the Department notes, at the rate of minimum wage, that amounts to over $27,000, not including other benefits.

As many of my colleagues know, the senior meals program is one of the most vital services provided under the Older Americans Act, and ensuring that meals can be delivered to seniors or that seniors can be taken to meal sites is an essential part of that program. Unfortunately, Federal support for the senior nutrition programs has stagnated in recent years. This has increased pressure on local programs to leverage more volunteer services to make up for lagging federal support. The 14 cents per mile reimbursement limit, though, increasingly poses a barrier to obtaining those contributions. Portage County reports that many of their volunteers cannot afford to offer their services under such a restriction. And if volunteers cannot be found, their services will have to be replaced by contracting with a provider, greatly increasing costs to the Department, costs that come directly out of the pot of funds available to pay for meals and other services.

By contrast, businesses do not face this restrictive mileage reimbursement limit. The comparable mileage rate for someone who works for a business is currently 36 cents per mile. This disparity means that a business hired to deliver the same meals delivered by volunteers for Portage County may reimburse their employees over double the amount permitted the volunteer without a tax consequence.

This doesn't make sense. The 14 cents per mile volunteer reimbursement limit is badly outdated. According to the Congressional Research Service, Congress first set a reimbursement rate of 12 cents per mile as part of the Deficit Reduction Act of 1984, and did not increase it until 1997, when the level was raised slightly, to 14 cents per mile, as part of the Taxpayer Relief Act of 1997.

The bill I am introducing today is identical to a measure I introduced in the 107th Congress. It raises the limit on volunteer mileage reimbursement to the level permitted to businesses. It is essentially the same provision passed by the Senate as part of a tax bill passed in 1999 that was vetoed by President Clinton. At the time of the 1999 measure, the Joint Committee on Taxation, JCT, estimated that the mileage reimbursement provision would result in the loss of $1 million over the five-year fiscal period from 1999 to 2004. The revenue loss was so small that the JCT did not make the estimate on a year by year basis.

Though the revenue loss is small, it is vital that we do everything we can to move toward a balanced budget, and to that end I have included a provision to fully offset the cost of the measure and make it deficit neutral. The offset provision would impose a civil penalty of up to $5,000 on failure to report interest in foreign financial transactions. During the 107th Congress, that provision was included in the CARE Act legislation by the Senate Finance Committee.

I urge my colleagues to support this measure. It will help ensure charitable organizations can continue to attract the volunteers that play such a critical role in helping to deliver services and

it will simplify the tax code both for nonprofit groups and the volunteers themselves.

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

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

S. 301

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

SECTION 1. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139 the following new section:

''SEC. 139A. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that such reimbursement would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) NO DOUBLE BENEFIT.—Subsection (a) shall not apply with respect to any expenses if the individual claims a deduction or credit for such expenses under any other provision of this title.

''(c) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139 and inserting the following new item:

''Sec. 139A. Reimbursement for use of passenger automobile for charity.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 302. A bill to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to restore and extend the term of the advisory commission for the recreation area, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce this legislation today with Senator BOXER to allow the National Park Service to extend the boundaries of the Golden Gate National Recreation Area, GGNRA, by acquiring critical natural landscapes and scenic vistas. Last year, this bill was successfully passed out of the Senate, but was not passed by the House before the 107th Congress adjourned.

This bill meets two distinct needs in California by adding 4,700 acres of pristine natural land to the boundary of the Golden Golden Gate Recreation Area, GGNRA, and by extending the Golden Gate National Recreational Area, GGNRA, Advisory Commission for ten more years.

A key component of this legislation is that about half of the total cost of purchasing these lands will be donated by the local community. This legislation specifically provides that all land transactions involve a willing seller and willing buyer.

Furthermore, this bill has the strong support of the local environmental and preservation groups, the Point Reyes National Seashore Advisory Commission, and the National Park Service. I know of no opposition to this bill.

The three Marin County properties lie in the Marin headlands. Preservation of these lands will protect habitat, ridge-top trails and scenic views of San Francisco Bay and the Pacific Ocean.

The city of San Francisco would like to donate to the Federal Government the San Francisco land along the Pacific coastline, and has authorized $100,000 for the restoration of the site.

The addition of the Rancho Corral de Tierra property will protect sweeping views of the San Mateo Coast and ensure the protection of rich farmland, several miles of public trails, and an incredible array of wildlife and vegetation. All or part of four watersheds, and several endangered species such as the peregrine falcon, San Bruno elfin butterfly, San Francisco garter snake and the red-legged grog. Moreover, due to the coastal marine influence and dramatic altitude changes, plants grow on the property that are found nowhere else in the world.

The second component of this bill extends the advisory commission of the Golden Gate National Recreation Area for ten more years.

This commission has an active committee that represents a wide range of user groups from bicyclists to bird watchers to outdoor enthusiasts. It provides a vital communications link between the Park Service and the surrounding communities that enjoy the attractions that this national site has to offer. Without this commission, the Park Service would be hard pressed to provide the same level of service and attention to the broad interests and diverse communities that it serves.

I continue to be a strong advocate for public involvement in Park Service decisions. I believe that this commission has been essential in ensuring that the Park Service upholds its commitment to allow community participation in its decision making process, particularly when it comes to contentious issues.

California's national parks are truly invaluable and the park that this bill supports offers an opportunity for visitors and residents to enjoy unique national habitats and open spaces. This legislation continues the legacy that enables the Park Service and the community to work together, not only to protect the environment, but also the interests of the nearby communities.

This bill enjoys strong support from local and State officials and I hope that it will have as much strong bipartisan support this Congress, as it did last Congress. Congressman TOM LANTOS plans to introduce companion legislation for this bill in the House and I applaud his leadership on this issue.

I urge my colleagues to support this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 302

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 ''Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act''.

SEC. 2. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

(a) BOUNDARY ADJUSTMENT.—Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking ''The recreation area shall comprise'' and inserting the following:

''(1) INITIAL LANDS.—The recreation area shall comprise''; and

(2) by striking ''The following additional lands are also'' and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

''(2) ADDITIONAL LANDS.—In addition to the lands described in paragraph (1), the recreation area shall include the following:

''(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

''(B) Lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980.

''(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

''(D) Lands generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

''(E) Lands generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079C and dated January 2003, except that lands and interests in lands constituting the Devil's Slide Tunnel alternative are not included in the recreation area. The Secretary shall modify the boundary map referred to in this subparagraph to reflect the exclusion of such lands and interests in lands.

''(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.''.

(b) EXTENSION OF TERM OF ADVISORY COMMISSION.—Effective as of October 26, 2002, section 5(g) of Public Law 92–589 (16 U.S.C. 460bb–4(g)) is amended by striking ''cease to exist thirty years after the enactment of this Act'' and inserting ''terminate at the end of the 10–year period beginning on the date of the enactment of the Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act''.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. INOUYE, Mr. AKAKA, Mr. CORZINE, Mrs. MURRAY, Ms. MIKULSKI, Mr. KERRY, Mrs. CLINTON, and Mr. LAUTENBERG):

S. 304. A bill to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor and Pensions.

Mr. DODD. Mr. President, I am pleased to join with my colleagues Senator KENNEDY, Senator INOUYE, Senator AKAKA, Senator CORZINE, Senator MURRAY, and Senator MIKULSKI, to introduce the Family and Medical Leave Expansion Act. Today marks the 10th anniversary of the enactment of the Family and Medical Leave Act. This landmark legislation was nearly a decade in the making, but today, a decade after enactment, more than 35 million Americans have taken leave under FMLA.

Despite the many Americans the Family and Medical Leave Act has helped, too many continue to be left behind. Too many continue to have to choose between job and family. The facts are clear: millions of Americans remain uncovered by the Family and Medical Leave Act. And, too many who are eligible for the Family and Medical Leave Act cannot afford to take unpaid leave from work. The ''Family and Medical Leave Expansion Act'', which we are introducing today addresses both these problems.

The ''Family and Medical Leave Expansion Act'' would expand the scope and coverage of FMLA. It would fund pilot programs at the State level to offer partial or full wage replacement programs to ensure that employees do not have to choose between job and family.

Times have changed over the years. More and more mothers are working. While only 27 percent of mothers with infants were in the labor force in 1960, by 1999 that percentage rose to nearly 60 percent. Even as employment rates within this group rises, family responsibilities remain constant, a reality that lies at the core of the FMLA. According to an employee survey by the Department of Labor, about one fifth of US workers have a need for some form of leave covered under the FMLA, and about 40 percent of all employees think they will need FMLA-covered leave within the next five years.

According to a Department of Labor study in 2000, leave to care for one's own health or for the health of a seriously ill child, spouse or parent, together account for almost 80 percent of all FMLA leave. Approximately 52 percent of the leave taken is due to employees' own serious health problems, while 26 percent of the leave is taken by young parents caring for their children at birth or adoption.

The FMLA requires that all public sector employers and private employers of 50 or more employees provide up to twelve weeks of unpaid leave for medical and family care reasons for eligible employees. About 77 percent of employees, in the private and public sector, currently work in FMLA-covered sites, although only 62 percent of employees are actually eligible for leave.

However, only 11 percent of private sector work sites are covered under FMLA. Individuals working for small private employers deserve the same work protections afforded to other employees. As a step toward expanding protection to all hard-working Americans, this bill would extend FMLA coverage to all private sector worksites with 25 or more employees within a 75-mile radius. This would mean that an additional 13 million Americans would be eligible for leave under the Act, roughly 240,000 in my own State of Connecticut.

Mothers and fathers, sons and daughters have the same family responsibilities and personal health problems, regardless of whether they work for the government, a large private enterprise, or a small private business. Expanding the FMLA to businesses with 25 or more employees is a crucial acknowledgment of this reality.

The bill recognizes the enormous physical and emotional toll domestic violence takes on victims. The bill expands the scope of FMLA to include leave for individuals to care for themselves or to care for a daughter, son, or parent suffering from domestic violence.

Expanding the scope and coverage of FMLA is a positive step for many Americans. But, alone, it is not enough. According to a Department of Labor study, 3.5 million covered Americans needed leave but, without wage replacement, could not afford to take leave. Over four-fifths of those who needed leave but did not take it said they could not afford unpaid leave. Others cut their leave short, with the average duration of FMLA leave being 10 days. Of those individuals taking leave under the Family and Medical Leave Act, nearly three-quarters had incomes above $30,000.

While the financial sacrifice is often enormous, the need for leave can be even more so. Every year, many Americans bite the bullet and accept unpaid leave. As a result, nine percent of leave takers go on public assistance to cover their lost wages. Almost twelve percent of female leave takers use public assistance for this reason. These individuals are far from being unwilling to work. Instead, they are trying to balance work with family, often during a crisis, too often with inadequate means to get by.

Other major industrialized nations have implemented policies far more family-friendly to promote early childhood development and family caregiving. At least 128 countries provide paid and job-protected maternity leave, with sixteen weeks the average basic paid leave. In 1992, before we enacted the Family and Medical Leave Act, the European Union mandated a paid fourteen week maternity leave as a health and safety measure. Among the 29 Organization for Economic Cooperation and Development, OECD, countries, the average childbirth-related leave is 44 weeks, while the average duration of paid leave is 36 weeks.

Compared to these other developed nations, the United States is far behind in efforts to promote worker welfare and productivity. The ''Family and Medical Leave Expansion Act'' builds on current law to provide pilot programs for States and the Federal Government to provide for partial or full wage replacement for 6 weeks. At a minimum, this will ensure that parents can continue to make ends meet while taking family and medical leave.

When we talk about a more compassionate America, no where is that more evident than in our caregiving leave policies. No one should have to choose between work and family. Women and men deserve to take leave when family or health conditions require it without fear of losing their job or livelihood. We must not simply pay lip service to family integrity and the promotion of a healthy workplace. Instead, we must actively work to reduce workplace barriers.

We talk often of our need to strengthen family values. We cite studies about the importance of the first few months of a newborn's life. This is our chance to offer more parents the opportunity to spend more time with their families, to help fulfill the call to provide a more compassionate America.

I urge my colleagues to support the ''Family and Medical Leave Expansion Act'' to promote our family values and ensure the welfare and health of hard-working Americans.

I ask unanimous consent that a copy of the summary of the Family and Medical Leave Expansion Act be printed in the RECORD.

THE FAMILY AND MEDICAL LEAVE EXPANSION ACT

BRIEF SUMMARY

Background: Since enactment in 1993, more than 35 million employees have taken leave under the Family and Medical Leave Act. Under current law, an employee is eligible for 12 weeks of unpaid leave if she or he has worked for an employer for at least 12 months; has worked for 1,250 hours over the 12 months before leave is needed; and works at a location with 50 or more employees within 75 miles. About 11 percent of private sector businesses are covered under FMLA; 77 percent of employees work in these covered businesses (although about 62 percent of employees are eligible for FMLA).

According to the most recent data, 52 percent of leave-takers have taken time off to care for their own serious illness; 26 percent of leave-takers have taken time off to care for a new child or for maternity disability reasons; 13 percent have taken time off to care for a seriously ill parent; 12 percent have taken time off to care for a seriously ill child; and 6 percent have taken time off to care for a seriously ill spouse. About 42 percent of leave takers are men; about 58 percent of leave-takers are women. The median length of leave is 10 days; 80% of leaves are for 40 days or fewer. About 73 percent of leave-takers earn $30,000 or more.

The Family and Medical Leave Expansion Act would expand the scope and coverage of FMLA to ensure that even more American workers do not have to choose between job and family. Too many eligible individuals simply cannot afford unpaid leave. Many forgo leave or take the shortest amount of time possible because the current FMLA law requires only unpaid leave. The Family and Medical Leave Expansion Act would:

Establish a pilot program to allocate grants to states to provide paid leave for 6 weeks to eligible employees responding to caregiving needs resulting from the birth or adoption of a child or family illness. States may provide for wage replacement directly or through an insurance program, such as a state temporary disability program or a state unemployment compensation program, or other mechanism. Such paid leave shall count toward an eligible employee's 12 weeks of leave under FMLA.

Expand the number of individuals eligible for FMLA by covering employers with 25 or more employees (to enable 13 million more Americans to take FMLA).

Expand the reasons for leave to include eligible employees addressing domestic violence and its effects, which make the employee unable to perform the functions of the position of such employee or, to care for the son, daughter, or parent of the employee, if such individual is addressing domestic violence and its effects.

Establish a pilot program within the federal government for the Office of Personnel Management (OPM) to administer a partial or full wage replacement for 6 weeks to eligible employees responding to caregiving needs resulting from the birth or adoption of a child or other family caregiving needs. Such paid leave shall count toward an eligible employee's 12 weeks of leave under FMLA.

Allows employees to use a total of 24 hours during any 12 month period to participate in a school activity of a son or daughter, such as parent-teacher conference, or to participate in literacy training under a family literacy program.

By Mr. SMITH (for himself, Mr. REID, Mr. WYDEN, Mr. ENSIGN, Mrs. CLINTON, Mr. SCHUMER, Mrs. BOXER, Mrs. FEINSTEIN, Ms. CANTWELL, and Mrs. MURRAY):

S. 306. A bill to amend part C of title XVIII of the Social Security Act to consolidate and restate the Federal laws relating to the social health maintenance organization projects, to make such projects permanent, to require the Medicare Payment Advisory Commission to conduct a study on ways to expand such projects, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce a bill that will make Medicare's Social Health Maintenance Organization, SHMO, demonstration a permanent part of the Medicare+Choice program. In this effort, I am joined by my colleagues from Oregon, New York, Arizona, California, and Washington.

The Social HMO demonstration was authorized 18 years ago to test models for improving health care for frail seniors, expanding access to social and supportive services, and integrating these expanded benefits with medical services better. My colleagues and I feel that an eighteen-year test is long enough, it is time for this successful program to become a permanent choice for Medicare beneficiaries.

Close to 80 percent of national health care expenditures are for people with chronic conditions. Medicare beneficiaries are disproportionately affected by chronic illness. About 85 percent of people who are 65 and older have one chronic condition, and two thirds have two or more. Fully a third of Medicare beneficiaries have four or more chronic conditions. This group accounts for more than three quarters of all Medicare spending. Yet, despite the predominance of chronic illness among seniors, Medicare continues to operate as an acute care model. So many of the services that are central to the health care needs of seniors are not covered by Medicare, including a number of preventive services, care coordination and disease management services, and home and community-based support services.

Social HMOs provide the care coordination and disease management services so critically important to frail and at-risk seniors with multiple chronic conditions and complex care needs. Social HMOs are required to provide expanded care benefits such as prescription drugs, ancillary services such as eyeglasses and hearing aids, and community-based services such as personal care, homemaker services, adult day care, meals, and transportation. These services meet the chronic health care needs of seniors, helping them remain independent, while reducing Medicaid expenditures by avoiding or delaying nursing home placement.

Several recent studies have shown that Social HMO members are 40 percent to 50 percent less likely to have long-term nursing home placements than similar seniors. Further, in a recent survey of Social HMO beneficiaries, over three-quarters of respondents indicated that the special services offered by their Social HMO were critical in allowing them to continue living at home. Enhanced Social HMO services, such as early detection of illness, development of coordinated care plans to address problems identified during routine assessments, screening, and ongoing monitoring of care, has paid off in improved health outcomes for beneficiaries. One study submitted to CMS by the University of California at San Francisco and the University of Minnesota showed that the Social HMO chronic care interventions decreased inpatient hospital and emergency room use up to 57 percent and 47 percent, respectively, while improving beneficiaries' functional capacity.

Last year, Medicaid spending increased by over 13 percent. More than half of this growth was in programs serving the elderly and disabled. At a time when the Federal deficit is increasing and States are facing unprecedented budget shortfalls, it is incumbent upon us to take measures to reduce, not increase, the Medicaid burden, which constitutes a major component of State expenditures.

My legislation provides a critical opportunity to address the States' large and growing fiscal crises. In the short-term we can prevent an exacerbation of States' budget woes by making the Social HMOs permanent. Preliminary estimates of first year costs for terminating the Social HMO program range from about $100 to $300 million for increased nursing home and home care expenditures under Medicaid. Remember that these estimates relate to only four existing plans serving about 110,000 beneficiaries and do not even include prescription drugs and other ancillary services provided by the plans. Long-term cost savings associated with reduced health care expenditures and keeping enrollees from spending down to Medicaid would be even more significant—especially if the MedPAC study required by our bill validates that these programs are cost-effective and recommends to Congress that we expand this option. For states facing huge shortfalls, the cost to absorb these SHMO beneficiaries if the program were to terminate would be substantial.

I am fortunate that one of the four original Social HMOs is in Oregon. Senior Advantage II, offered by Kaiser Permanente's Northwest Division, currently serves about 4,300 Medicare beneficiaries from Salem, OR to Longview, Washington, with its primary service area in Portland, OR. Since Kaiser opened its Social HMO program, it has served close to 15,000 beneficiaries with its enhanced benefits and special geriatric programs, which have led to fewer overall nursing home care days and a more consumer-oriented approach to care for frail or ill seniors.

The legislation I am introducing with my distinguished colleagues today would make permanent the existing Social HMO plans, like Kaiser, and would lay the ground work for evaluating whether to expand and replicate this model. Our bill requires the Secretary to conduct a comparative study of beneficiary and family member satisfaction to see how Social HMOs compare to Medicare + Choice and fee-for-service Medicare. It also requires MedPAC to evaluate the cost-effectiveness of Social HMOs with respect to reduced nursing home admissions, reduced incidence of Medicaid spend-down, and other aspects of the model that represent potential cost-savings. If MedPAC finds that Social HMOs are cost-effective, it must make recommendations to Congress on expanding and replicating this model.

To ensure that beneficiaries continue to receive the value added they have come to enjoy under this program, the Social HMOs must continue to provide the expanded benefit package currently offered under this legislation. Further, this benefit could not be changed by the Secretary without notification of Congress. Finally, to ensure that Social HMOs can continue to finance a high level of benefits, any changes in plans' existing payments would need to go through a formal rulemaking process.

The Social HMO demonstration project has been re-validated by six acts of Congress since its creation. It is time to make this program permanent and lend a measure of stability to the plans and beneficiaries served by this innovative model. This program represents a fiscally sound approach to helping manage the chronic health care needs of our nation's seniors, and I urge all of my colleagues to join with me and the rest of this bill's cosponsors in support of this important legislation.

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

S. 307. A bill to designate the Federal building and United States courthouse located at 200 West 2nd Street in Dayton, Ohio, as the ''Tony Hall Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, I rise today, along with my friend and colleague from Ohio, Senator GEORGE VOINOVICH, to introduce a bill to name the Federal building and United States courthouse in Dayton, Ohio, after Congressman Tony Hall.

This bill is a fitting tribute to Tony Hall, a tireless and dedicated public servant, who we greatly miss since his retirement from the United States Congress. He is continuing his commitment to public service as our U.S. Ambassador to the UN's food and agriculture agencies.

The people of Ohio and the American people can be proud of and thankful for the many years Tony Hall has served in the United States Congress. I've had the privilege of working closely with him since my early days in the House nearly 20 years ago. He has been a valuable legislator and a real statesman. Over the years, he has worked tirelessly on behalf of the people of Montgomery County and throughout Ohio.

Tony Hall comes from a family rich in devotion to public service and dedication to Ohio. His father, in fact, once served as Dayton's Republican Mayor. A graduate of Fairmont High School in Kettering and Denison University in Granville, where he was an all-star tailback on the football team, Tony served in the Ohio House from 1969–1972, in the Ohio Senate from 1973–1978, and as Dayton's Congressman since January 1979.

A devoted husband to his wife, Janet, and a dedicated father to Jyl and Matt, the entire Hall family struggled valiantly alongside Matt as he fought an unsuccessful battle against leukemia that ended in 1996.

My wife, Fran, and I are proud to have worked over two decades with Tony and Janet on humanitarian efforts and other causes that bridge across the political aisle. Tony, who served in the Peace Corps in 1966 and 1967, has been an unmatched advocate for the needy, the poor, the hungry, and the oppressed across Ohio, our Nation, and the world.

Tony has been singularly responsible for much of the world's continued, focused attention on the serious hunger issues worldwide. His involvement in a 22-day hunger strike in 1989, forced the Department of Agriculture and the World Bank to call conferences on hunger, which ultimately resulted in the creation of the Congressional Hunger Center. I'm proud to have worked with Tony on several humanitarian initiatives through the years from Africa Seeds of Hope to the Global Food for Education Act to the Microenterprise for Self-Reliance Act to the Clean Diamond Act of 2001.

We also share a commitment to the yet unborn. A staunch pro-life Democrat, Congressman Hall was responsible for language in the Democratic National Committee platform respecting the beliefs of those within his party who wished to protect the sanctity of life.

I also have had the pleasure of working with Tony Hall on several projects important to the Miami Valley area of Ohio. We share a passion for the aviation heritage of the Wright Brothers in Dayton and have worked together to protect and preserve the monuments to the Wright Brothers legacy. And, we've also worked together on issues to help build the unique resources of Wright Patterson Air Force base.

Today, it is a pleasure to take this opportunity to join Senator VOINOVICH to honor Tony Hall's many legislative efforts and achievements and to thank him for his commitment to the people of Ohio and this Nation. I urge my colleagues to support this bill to honor our good friend and statesman, Tony Hall.

By Mr. LOTT:

S. 308. A bill to impose greater accountability on the Tennessee Valley Authority with respect to capital investment decisions and financing operations by increasing Congressional and Executive Branch oversight; to the Committee on Environment and Public Works.

Mr. LOTT. Mr. President, the Tennessee Valley Authority has long served as an engine for economic development in my part of the country and has enjoyed widespread support for its efforts to provide power that is needed to fuel the economy and enhance the quality of life of those it serves. It is my desire to assist the TVA in continuing its legacy and carrying out its mission. To provide that assistance, the Congress, the Administration, and the TVA itself must determine whether TVA's policies, practices, and long-term strategies are consistent with the realities of today's marketplace.

The TVA is at a crossroads in its illustrious history. The United States taxpayer and the power consumers in the TVA service area have provided the capital necessary to develop, finance, and operate one of the largest, if not the largest, public power systems in history. The TVA is now facing a number of challenges with respect to its existing generating system in the form of environmental compliance, aging and obsolete plants, and the urgent need to provide additional generating capacity to meet the demands of the future. It is my belief that the United States taxpayer is unwilling and unable to continue to bear the financial burden and risks associated with addressing these challenges.

The reality of the marketplace for energy and the political imperatives with which we are confronted mandate that any new financing strategies and supplemental sources of capital be considered and utilized by the TVA. Likewise, we need to review and analyze the short-term and long-term financing and risk management strategies employed by the TVA with respect to its almost $26 billion of debt.

Last year, we witnessed the results of risky and sometimes corrupt corporate financing and management practices. Although I have no reason to believe that TVA has been involved in any

such practices, I believe we have a responsibility to the taxpayers to examine the financing and disclosure practices of the TVA to ensure that their investment is being protected. I note that TVA has utilized short-term financing facilities and derivative securities as hedging and interest rate management techniques. We need to better understand the risks and rewards associated with these strategies.

The legislation that I am introducing today would require that the TVA provide the Congress and the Administration with a 10-year business outlook and strategic plan with respect to its development and financing needs, as well as an analysis of its ongoing financing and risk management strategies. During the period in which the TVA is responding to this Congressional mandate, the TVA would be required to cease and desist from incurring new obligations or entering into any arrangements for the development or financing of new, additional, or replacement plant, equipment, or capacity. Likewise, during this period the TVA would be required to gain the concurrence of the Director of the Office of Management and Budget and the appropriate Senate and House Committee leaders before undertaking any additional financing or refinancing activities. The legislation specifically provides for the necessary flexibility for the TVA to continue normal operations and fund necessary maintenance activities while complying with this Congressional mandate.

I strongly support the TVA and I recognize its importance to the economic health of several States in the southeastern United States, including my own. Indeed, the TVA is a critical component of the infrastructure that supports the economy of the entire United States. It is my desire in introducing this legislation that the TVA be positioned to meet the challenges of the 21st Century. Introduction of this legislation is the first step to help the TVA achieve that goal.

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

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

S. 308

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

SECTION 1. TENNESSEE VALLEY AUTHORITY.

(a) DEFINITIONS.—In this section:

(1) AUTHORITY.—The term ''Authority'' means the Tennessee Valley Authority.

(2) BOARD.—The term ''Board'' means the Board of Directors of the Authority.

(3) COMMITTEE LEADER.—The term ''Committee leader'' means the chairman and ranking member of each of the Committee on Appropriations and the Committee on the Environment and Public Works of the Senate and the Committee on Appropriations and the Committee on Transportation and Infrastructure of the House of Representatives.

(4) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(5) PLAN.—The term ''Plan'' means the Ten-Year Business Outlook and Strategic Plan submitted under subsection (b).

(b) PLAN.—Not later than 90 days after the effective date of this section, the Authority shall submit to the Director and each of the Committee leaders, for their concurrence, a Ten-Year Business Outlook and Strategic Plan for the Authority that includes, at a minimum—

(1) estimates of—

(A) the power demand in the service area of the Authority during the 10-year period following the date of the plan;

(B) the assets that the Authority anticipates will be available to meet that demand; and

(C) capital expenditures that will be required to meet that demand;

(2) a strategy and criteria for the development and financing of new nuclear and nonnuclear power supply sources, including a strategy for competitive sourcing and partnering with the private sector for the development and financing of new nuclear and nonnuclear power facilities; and

(3) a strategy for managing the financing, refinancing, and repayment of the existing indebtedness of the Authority, including a specific debt repayment schedule to which the Board is specifically committed.

(c) FINANCING STRATEGIES.—The provisions of the Plan relating to financing strategies under subsection (b)(3) shall include a recitation of the policies of the Board with respect to—

(1) the use of short-term and long-term debt;

(2) the use of derivative or other financing instruments; and

(3) risk management strategies.

(d) LIMITATIONS.—

(1) IN GENERAL.—The Authority shall not, until the date, if any, on which the Director and each of the Committee leaders issue a written concurrence to the Plan—

(A) expend any internally generated capital or otherwise undertake any investment in, or enter into any arrangement that would result in the development or financing of, new, additional, or replacement plant, equipment, or capacity; or

(B) without the written concurrence of the Director and each of the Committee leaders, undertake any financing of additional indebtedness or refinancing of debt of the Authority in any public or private market.

(2) EFFECT.—This subsection does not preclude the Authority from expending available funds, in the exercise of the independent judgment of the Authority, for the repair, maintenance, or necessary renovation to preserve the operating capacity and efficiency of existing units and related facilities.

(e) EFFECTIVE DATE.—This section takes effect on January 31, 2003.

By Mr. ALLEN (for himself and Mr. DODD):

S. 309. A bill to enable the United States to maintain its leadership in aeronautics and aviation by instituting an initiative to develop technologies that will significantly lower noise, emissions, and fuel consumption, to reinvigorate basic and applied research in aeronautics and aviation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ALLEN. Mr. President, I am most pleased to be joined by our esteemed colleague, Senator DODD of Connecticut, to introduce the Aeronautics Research and Development Revitalization Act. This legislation is the foundation for ensuring that the United States remains the preeminent Nation in the design, engineering and production of military and civilian aircraft.

The last 5 years have seen the NASA budget for aeronautics research and development literally cut in half from $1 billion to its current level of $500 million. In making these cuts, the United States has been rendered more vulnerable to foreign competition in the field of aeronautics. The nations of Europe have moved in the exact opposite direction—dramatically increasing such funding in an effort to control the world's aviation market. A recent article in the Wall Street Journal documents the rise of Airbus as the largest producer of civilian aircraft in the world. If forecasts for this year hold true, Airbus will deliver more aircraft than Boeing for the first time. In light of these disturbing developments it is obvious that the U.S. is in grave danger of losing its position as the world leader in aeronautics and aviation.

It is important to note that throughout the history of aeronautics and aviation that this country has been at the forefront of discovery and innovation. It began with the First Flight of the Wright Brothers on December 17, 1903 in Kitty Hawk, NC, followed by the historic flight of Charles Lindbergh from New York to Paris in May of 1927. U.S. companies have led the aviation and aeronautics industry from the propeller era into the jet engine era. The research and innovation of the U.S. has been the primary reason the world enjoys the convenience and safety of air travel today.

Our military has seen the benefits from the progress made in aeronautics research. The significant improvements made from World War I to World War II directly impacted the Allies ability to establish air superiority. The numerous advances made in U.S. aircraft design greatly increased the top speed and altitude of bombers and fighters during crucial years of the war. Since then, our country's aeronautics research has made it the dominant air power in the world, with technologies years in advance of its closest pursuers. As a result of these advancements, U.S. troops are placed in far less harm and more precise strikes against enemy targets can be made while avoiding non-targeted civilians.

Fortunately NASA has recognized the emergence of international competition and the need for the U.S. to reassert itself as the lead nation in aeronautics research technology and innovation. The recently published ''The NASA Aeronautics Blueprint—Toward a Bold Era of Aviation'' is an excellent report on the problems facing American aviation and aeronautics. It also provides an exciting vision of what can be achieved by investing in aeronautics research and development. However NASA has not provided a program or plan for how to achieve this vision nor funding levels that would be required

to attain the goals laid out in the Blueprint. Thus without a plan or funding, it is unlikely this report would ever be acted upon.

In an effort to tackle the major initiatives of the NASA Blueprint head-on, we are introducing the Aeronautics Research and Development Revitalization Act. The legislation will provide aggressive funding authorizations to provide the NASA aeronautics program with the resources it needs to keep the United States on the cutting edge of all aspects of aeronautics and aviation. Our complacency must change now to prevent further damage to our competitiveness in aviation. The U.S. aviation industry is the largest contributor to the U.S. balance of trade and directly accounts for $343 billion to the U.S. economy and 4.2 million positions to our job market.

First, consider the impact of aviation on our communities. As air travel becomes more commonplace, increased aircraft noise will place a strain on both the citizens and businesses living and operating in the areas surrounding our nation's airports. The effect on property values and quality of life can be enormous, so it will be important to pursue technologies that reduce the level of noise emitted from aircraft. We also must acknowledge the rising emissions levels that are the result of increased air travel as well as the fuel consumption required to meet the growing number of planes in the air. The instability of oil prices and the growing effect of fuel emission on our atmosphere make it necessary to find improvement in fuel efficiency. These environmental factors must be addressed, or the American people will certainly face fewer choices and higher prices. To meet these needs, our legislation provides significant funding to be used for research, much of which will be designated for universities, industrial research facilities and not-for-profit research entities. The impacts of aviation are beginning to negatively impact the lives of many Americans; this initiative will make aircraft more environmentally friendly.

Additionally, strides also need to be made in rotorcraft technology. This legislation authorizes funding for, and tasks NASA with, improving the noise and vibration levels of helicopters, as well as improving the predicted accident rate to make it equivalent to that of fixed-wing aircraft. Helicopters are indispensable for our military and provide great convenience for the civilians. Making them safer and quieter is a worthwhile effort that should be pursued.

The promise of civil supersonic travel has been on the horizon for some time. However it has been difficult to perfect the technology for a civilian supersonic aircraft and the costs associated with such a program are high. The legislation we have introduced would required NASA to develop a road map for achieving the flight of a supersonic civil transport aircraft that can reach a speed of Mach 1.6, travel at least 4,000 nautical miles, and carry one hundred fifty passengers. If these goals can be met over the next twenty years, the U.S. aviation industry will be revolutionized. Achieving such speeds would change business and personal travel as it is known today. To bring this initiative forward, this legislation would authorize $110 million for the next five years. This should provide a good start in the effort to bring civilian air travel into the twenty-first century.

At the core of U.S. aeronautics and aviation superiority are men and women performing the research and development necessary for technological breakthroughs. The U.S. has seen a disturbing decline in the number of aeronautical engineers graduating from its universities. It is important to encourage American students to consider these fields. We need to make sure the best and the brightest are properly trained so they can make their creative ideas and theories a reality. This current trend is a leading reason the U.S. is losing ground in aeronautics research. To combat the dearth of aeronautics engineers, this legislation would authorize NASA to establish a generous scholarship program for those students seeking a Masters Degree in the field of aeronautics.

As air travel becomes more prevalent, it becomes more important that air traffic management and control are operating in the most effective and safe manner. This bill includes a measure that requires the Administrator of NASA to work with the Federal Aviation Association Administrator to develop a national initiative with the objective of defining and developing an air traffic management system designed to meet the national long-term aviation security needs, along with safety, security and capacity needs. These provisions will hopefully result in a new, more streamlined method for directing air traffic around our busiest airports and cities.

The measures and funding authorizations in this legislation are aggressive. However when considering the state of both the aeronautics and aviation industries. I believe it is time to take decisive action to ensure the long-term competitive supremacy of both our military and civilization aviation programs.

The majority of military aircraft technology was developed to some degree by NASA's aeronautics program. To make sure those risking their lives in the service of the country are afforded the best possible equipment in performing their duties, the U.S. government has the responsibility to make the necessary investments in research and development. In recent years we have seen a drastic cuts in the programs designed for this purpose. Technology and innovation are always moving forward, the government needs to expend the resources to keep the U.S. at the forefront of those efforts.

The civilian airline and aeronautics industry has largely been dominated by the United States since its beginning. Recent news reports have shown however that this phenomenon is changing. Countries around the world are making great progress in building larger, more efficient commuter airlines at a cheaper price. This new competition has jeopardized the jobs of thousands of highly trained engineers and works in this country. Keeping pace with the competition and working to maintain the lead over other aircraft providers is essential if we want to keep this important segment of the work force employed. Losing global contracts means job cuts. To turn this trend around we must commit to the research and development that leads to innovation in commercial aviation. Only then will we secure the existing jobs in this country and build the need for more jobs.

To make this legislation law we will have to make some difficult choices and priorities. Current economic conditions dictate that we cannot fund every desirable program. However, even in the face of the circumstances, I feel strongly that we can no longer complacently wait to make the changes outlined in this legislation. Making the United States the unquestioned leader in aeronautics research and development is in the best interest of our military, our civilian airline industry, quality jobs and balance of trade. The aviation industry affects the lives of almost all Americans. For these reasons, we ask our colleagues to carefully review the current condition of U.S. aeronautics and the implications of its continued decline. I am confident they will concur that this legislation is needed now without delay. Our security, competitive position, jobs and future are sitting on the runway needing our fuel for the aeronautics industry to take off into the future.

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

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

S. 309

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 ''Aeronautics Research and Development Revitalization Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) It is in the national interest to maintain leadership in aeronautics and aviation.

(2) The United States is in danger of losing its leadership in aeronautics and aviation to international competitors.

(3) Past Federal investments in aeronautics research and development have benefited the economy and national security of the United States and the quality of life of its citizens.

(4) Future growth in aviation increasingly will be constrained by concerns related to aircraft noise, emissions, fuel consumption, and air transportation system congestion.

(5) Current and projected levels of Federal investment in aeronautics research and development are not sufficient to address concerns related to the growth of aviation.

(6) International competitors have recognized the importance of noise, emissions, fuel consumption, and air transportation system congestion in limiting the future growth of aviation and have established aggressive agendas for addressing each of these concerns.

(7) An aggressive initiative by the Federal Government to develop technologies that would significantly reduce aircraft noise, harmful emissions, and fuel consumption would benefit the United States by—

(A) improving the competitiveness of the United States aviation industry through the development of new markets for aviation services and the development of superior aircraft for existing markets;

(B) improving the quality of life for our citizens by drastically reducing the level of noise due to aircraft operations;

(C) reducing the congestion of the air transportation system by allowing departures and arrivals at currently under utilized airports through the use of environmentally compatible aircraft;

(D) reducing the rate at which fossil fuels are consumed;

(E) reducing the rate at which greenhouse gases and other harmful gases and particulates are added to the atmosphere by aircraft; and

(F) reinvigorating the human capital needed to maintain international leadership in aeronautics and aviation by providing a set of extremely challenging and socially beneficial goals to the next generation of engineers and scientists.

(8) Long-term progress in aeronautics and aviation will require continued Federal investment in fundamental aeronautical research.

(9) The European competitors of United States aircraft companies have invested heavily in new wind tunnels. These new tunnels are better than their older United States counterparts and give European aircraft manufacturers an advantage over United States aircraft manufacturers in the highly competitive civil aircraft sales business. As a result, United States aircraft companies are forced to perform tests in Europe's superior wind tunnels. The security of United States data obtained in these and other foreign test facilities can easily be compromised. New and upgraded United States aeronautical test facilities are needed to support a revitalized aeronautics research and development program, and should be a high national priority.

(10) Continued research is needed into the flight crew and controller training needed to accommodate new aircraft and air transportation system technologies and procedures.

(11) It is in the interest of the United States to maintain a vigorous capability in basic and applied research and development of technologies related to rotorcraft.

(12) Maintenance of United States leadership in aeronautics and aviation will require the productive collaboration of NASA, the Department of Defense, the FAA, the aviation industry, and the Nation's universities.

(13) Improvements to our understanding of convective weather phenomena and of aircraft wake turbulence would significantly improve the performance of the Nation's air transportation system.

(14) The terrorist attacks of September 11, 2001, have imposed new requirements for research on aviation security. NASA's aviation safety research must be expanded to include methods that provide for an air transportation system that is both safe and secure from terrorist attacks.

(15) It is important for NASA to continue at a healthy level its cooperative research efforts with the Department of Defense regarding military aviation technologies. These efforts have been all but eliminated in recent years and must be restored. The Nation must take advantage of the synergy between civil and military aviation research.

(16) The report entitled ''The NASA Aeronautics Blueprint—Toward a Bold New Era of Aviation'' provides an excellent statement of the problems facing aviation today, and presents an exciting vision of what can be achieved by investments in aeronautics research and technology. It does not, however, provide a program plan to actually achieve the vision, nor does it address the huge mismatch between current NASA aeronautics funding and what is required to realize the vision.

SEC. 3. DEFINITIONS.

In this Act:

(1) FAA.—The term ''FAA'' means the Federal Aviation Administration.

(2) FAA ADMINISTRATOR.—The term ''FAA Administrator'' means the Administrator of the FAA.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term by section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(4) NASA.—The term ''NASA'' means the National Aeronautics and Space Administration.

(5) NASA ADMINISTRATOR.—The term ''NASA Administrator'' means the Administrator of NASA.

TITLE I—NASA AERONAUTICS RESEARCH AND DEVELOPMENT

SEC. 101. ENVIRONMENTAL AIRCRAFT RESEARCH AND DEVELOPMENT INITIATIVE.

(a) OBJECTIVE.—Not later than 10 years after the date of enactment of this Act, the NASA Administrator shall develop and demonstrate, in a relevant environment, technologies that result in the following commercial aircraft performance characteristics:

(1) NOISE.—Noise levels on takeoff and on airport approach and landing that do not exceed ambient noise levels in the absence of flight operations in the vicinity of airports from which such commercial aircraft would normally operate.

(2) FUEL EFFICIENCY.—A 10 percent improvement in fuel efficiency, compared to aircraft in commercial service as of the date of enactment of this Act, in each of the following:

(A) Specific fuel consumption.

(B) Lift to drag ratio.

(C) Structural weight fraction.

(3) EMISSIONS.—Nitrogen oxides at less than 5 grams per kilogram of fuel burned.

(b) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the NASA Administrator shall provide to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the implementation of the initiative described in subsection (a). Such implementation plan shall include—

(1) technological roadmaps for achieving each of the performance characteristics specified in subsection (a);

(2) an estimate of the 10-year funding profile required to achieve the objective specified in subsection (a);

(3) a plan for carrying out a formal quantification of the estimated costs and benefits of each technological option selected for development beyond the initial concept definition phase; and

(4) a plan for transferring the technologies to industry, including the identification of requirements for prototype demonstrations, as appropriate.

(c) REVIEW.—Not later than 1 year after the date of enactment of this Act, the NASA Administrator shall enter into an arrangement with the National Research Council to review the adequacy of the implementation plan provided under subsection (b) to achieve the objective described in subsection (a). In addition, the NASA Administrator shall enter into an arrangement with the National Research Council for the review, every 3 years after the initial review under this subsection, of NASA's progress in achieving the objective described in subsection (a), including recommendations for changes to NASA's research and development program. The results of each review shall be provided to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 30 days after the review is completed.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under section 107, there are authorized to be appropriated to the NASA Administrator to carry out this section—

(A) $125,000,000 for fiscal year 2004;

(B) $150,000,000 for fiscal year 2005;

(C) $175,000,000 for fiscal year 2006;

(D) $200,000,000 for fiscal year 2007; and

(E) $225,000,000 for fiscal year 2008.

(2) AMOUNTS TO CERTAIN ENTITIES.—Of the amounts authorized to be appropriated in paragraph (1), the percentage of the annual appropriation that shall be used to fund research and development conducted at universities, industrial research entities, and not-for-profit research consortia is—

(A) 20 percent for fiscal year 2004;

(B) 30 percent for fiscal year 2005;

(C) 40 percent for fiscal year 2006; and

(D) 50 percent for fiscal years 2007 and 2008.

SEC. 102. ROTORCRAFT RESEARCH AND DEVELOPMENT INITIATIVE.

(a) OBJECTIVE.—Not later than 10 years after the date of enactment of this Act, the NASA Administrator shall develop and demonstrate, in a relevant environment, technologies that result in rotorcraft with the following improvements compared to rotorcraft operating on the date of enactment of this Act:

(1) 80 percent reduction in noise levels on takeoff and on approach and landing as perceived by a human observer.

(2) Factor of 10 percent reduction in vibration.

(3) 30 percent reduction in empty weight.

(4) Predicted accident rate equivalent to that of fixed-wing aircraft in commercial service.

(5) Capability for zero-ceiling, zero-visibility operations.

(b) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the NASA Administrator shall provide a plan to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate for the implementation of the initiative described in subsection (a). The implementation plan shall include—

(1) technological roadmaps for achieving each of the improvements specified in subsection (a);

(2) an estimate of the 10-year funding profile required to achieve the objective specified in subsection (a);

(3) a plan for carrying out a formal quantification of the estimated costs and benefits of each technological option selected for development beyond the initial concept definition phase; and

(4) a plan for transferring the technologies to industry, including the identification of requirements for prototype demonstrations, as appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated under section 107, there are authorized to be appropriated to the NASA Administrator to carry out this section—

(1) $40,000,000 for fiscal year 2004;
(2) $40,000,000 for fiscal year 2005;
(3) $40,000,000 for fiscal year 2006;
(4) $50,000,000 for fiscal year 2007; and
(5) $70,000,000 for fiscal year 2008.

SEC. 103. CIVIL SUPERSONIC TRANSPORT RESEARCH AND DEVELOPMENT INITIATIVE.

(a) OBJECTIVE.—Not later than 20 years after the date of enactment of this Act, the NASA Administrator shall develop and demonstrate, in a relevant environment, technologies to enable overland flight of supersonic civil transport aircraft with at least the following performance characteristics:

(1) Mach number of at least 1.6.
(2) Range of at least 4,000 nautical miles.
(3) Payload of at least 150 passengers.
(4) Lift to drag ratio of at least 9.0.
(5) Noise levels on takeoff and on airport approach and landing that meet community noise standards in place at airports from which such commercial supersonic aircraft would normally operate at the time the aircraft would enter commercial service.
(6) Shaped signature sonic boom overpressure of less than 1.0 pounds per square foot.
(7) Nitrogen oxide emissions of less than 15 grams per kilogram of fuel burned.
(8) Water vapor emissions for stratospheric flight of no greater than 1,400 grams per kilogram of fuel burned.

(b) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the NASA Administrator shall provide to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a plan for the implementation of the initiative described in subsection (a). Such implementation plan shall include—

(1) technological roadmaps for achieving each of the performance characteristics specified in subsection (a);
(2) an estimate of the 10-year funding profile required to achieve the objective specified in subsection (a);
(3) a plan for carrying out a formal quantification of the estimated costs and benefits of each technological option selected for development beyond the initial concept definition phase;
(4) a plan for transferring the technologies to industry, including the identification of requirements for prototype demonstrations, as appropriate;
(5) a plan for research to quantify, within 3 years after the date of enactment of this Act, the limits on sonic boom parameters, such as overpressure and rise time, that would be acceptable to the general public; and
(6) a plan for adjusting the noise reduction research and development activities as needed to accommodate changes in community noise standards that may occur over the lifetime of the initiative.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated under section 107, there are authorized to be appropriated to the NASA Administrator to carry out this section—

(1) $15,000,000 for fiscal year 2004;
(2) $20,000,000 for fiscal year 2005;
(3) $30,000,000 for fiscal year 2006;
(4) $30,000,000 for fiscal year 2007; and
(5) $30,000,000 for fiscal year 2008.

SEC. 104. NASA AERONAUTICS SCHOLARSHIPS.

(a) OBJECTIVE.—The NASA Administrator shall establish a program of scholarships for full-time graduate students who are United States citizens and are enrolled in, or have been accepted by and have indicated their intention to enroll in, accredited Masters degree programs in aeronautical engineering at institutions of higher education. Each such scholarship shall cover the costs of room, board, tuition, and fees, and may be provided for a maximum of 2 years.

(b) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the NASA Administrator shall publish regulations governing the scholarship program.

(c) COOPERATIVE TRAINING OPPORTUNITIES.—Students who have been awarded a scholarship under this section shall have the opportunity for paid employment at one of the NASA Centers engaged in aeronautics research and development during the summer prior to the first year of the student's Masters program, and between the first and second year, if applicable.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated under section 107, there are authorized to be appropriated to the NASA Administrator to carry out this section—

(1) $500,000 for fiscal year 2004;
(2) $750,000 for fiscal year 2005;
(3) $1,000,000 for fiscal year 2006;
(4) $1,000,000 for fiscal year 2007; and
(5) $1,000,000 for fiscal year 2008.

SEC. 105. AVIATION WEATHER RESEARCH.

There are authorized to be appropriated to the NASA Administrator $10,000,000 for each of the fiscal years 2004 through 2008 for collaborative research with the National Oceanic and Atmospheric Administration on convective weather events, with the goal of improving the reliability of 2- to 6-hour aviation weather forecasts to a level of at least 0.75.

SEC. 106. AIR TRAFFIC MANAGEMENT RESEARCH AND DEVELOPMENT INITIATIVE.

(a) OBJECTIVE.—The FAA Administrator and the NASA Administrator shall participate in a national initiative with the objective of defining and developing an air traffic management system designed to meet national long-term aviation security, safety, and capacity needs. The initiative should result in a multiagency blueprint for acquisition and implementation of an air traffic management system that would—

(1) build upon current air traffic management and infrastructure initiatives;
(2) improve the security, safety, quality, and affordability of aviation services;
(3) utilize a system of systems approach;
(4) develop a highly integrated, secure common information network to enable common situational awareness for all appropriate system users; and
(5) ensure seamless global operations for system users.

(b) IMPLEMENTATION.—In implementing subsection (a), the FAA Administrator and the NASA Administrator shall work with other appropriate Government agencies and industry to—

(1) develop system performance requirements;
(2) determine an optimal operational concept and system architecture to meet such requirements;
(3) utilize new modeling, simulation, and analysis tools to quantify and validate system performance and benefits;
(4) ensure the readiness of enabling technologies; and
(5) develop a transition plan for successful implementation into the National Airspace System.

(c) AUTHORIZATION.—Of the amounts authorized to be appropriated under section 107—

(1) there are authorized to be appropriated to the NASA Aerospace Technology Program to carry out this section—

(A) $50,000,000 in fiscal year 2004;
(B) $50,000,000 in fiscal year 2005;
(C) $100,000,000 in fiscal year 2006;
(D) $100,000,000 in fiscal year 2007; and
(E) $50,000,000 in fiscal year 2008; and

(2) there are authorized to be appropriated to the FAA Research, Engineering, and Development account to carry out this section—

(A) $20,000,000 in fiscal year 2004;
(B) $30,000,000 in fiscal year 2005;
(C) $40,000,000 in fiscal year 2006;
(D) $40,000,000 in fiscal year 2007; and
(E) $20,000,000 in fiscal year 2008.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The total amounts authorized to be appropriated for aeronautics research, development, and demonstration activities at NASA, including the amounts authorized by sections 101 through 106 of this Act, are—

(1) $675,000,000 for fiscal year 2004;
(2) $750,000,000 for fiscal year 2005;
(3) $900,000,000 for fiscal year 2006;
(4) $1,050,000,000 for fiscal year 2007; and
(5) $1,150,000,000 for fiscal year 2008.

(b) LIMITATION.—All amounts authorized to be appropriated by this title are for research and development activities and do not include amounts required to support the labor, travel, environmental compliance, and nonprogrammatic construction of facilities activities of the Office of Aeronautics.

TITLE II—FEDERAL AVIATION ADMINISTRATION RESEARCH AND DEVELOPMENT

SEC. 201. UNIVERSITY-BASED CENTERS FOR RESEARCH ON AVIATION TRAINING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44921. Grants for university-based centers for research on aviation training

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall award grants to institutions of higher education (or consortia thereof) to establish 1 or more Centers for Research on Aviation Training.

"(b) PURPOSE.—The purpose of the Centers for Research on Aviation Training shall be to investigate the impact of new technologies and procedures, particularly those related to the aircraft flight deck and to the air traffic management functions, on training requirements for pilots and air traffic controllers.

"(c) APPLICATION.—An institution of higher education (or a consortium of such institutions) seeking funding under this section shall submit an application to the Administrator of the Federal Aviation Administration at such time, in such manner, and containing such information as the Administrator may require, including, at a minimum, a 5-year research plan.

"(d) AWARD DURATION.—An award made by the Administrator of the Federal Aviation Administration under this section shall be for a period of 5 years and may be renewed on the basis of—

"(1) satisfactory performance in meeting the goals of the research plan proposed by the Center for Research on Aviation Training in its application under subsection (c); and

"(2) other requirements as specified by the Administrator.

"(e) INSTITUTION OF HIGHER EDUCATION.—In this section, the term 'institution of higher education' has the meaning given that term by section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''.

(b) CHAPTER 449 TABLE OF SECTIONS.—The table of sections at the beginning of subchapter I of chapter 449 of such title is amended by adding at the end the following:

''44921. Grants for university-based centers for research on aviation training.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the FAA Administrator to carry out this section $5,000,000 for each of the fiscal years 2004 through 2008.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS AUTHORIZED.—Section 48102(a) of title 49, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(3) by adding at the end the following:

''(9) for fiscal year 2004, $366,100,000, including—

''(A) $25,500,000 for weather projects and activities;

''(B) $81,600,000 for aircraft safety technology projects and activities;

''(C) $27,300,000 for human factors and aviation medicine projects and activities; and

''(D) $30,000,000 for environment and energy projects and activities;

''(10) for fiscal year 2005, $410,000,000, including—

''(A) $30,600,000 for weather projects and activities;

''(B) $90,100,000 for aircraft safety technology projects and activities;

''(C) $30,200,000 for human factors and aviation medicine projects and activities; and

''(D) $37,500,000 for environment and energy projects and activities;

''(11) for fiscal year 2006, $462,000,000, including—

''(A) $37,000,000 for weather projects and activities;

''(B) $99,800,000 for aircraft safety technology projects and activities;

''(C) $33,500,000 for human factors and aviation medicine projects and activities; and

''(D) $47,000,000 for environment and energy projects and activities;

''(12) for fiscal year 2007, $520,000,000; and

''(13) for fiscal year 2008, $550,000,000.''.

(b) RESEARCH PRIORITIES.—Section 48102(b) of title 49, United States Code, is amended by adding at the end the following new paragraphs:

''(4) Of the amount authorized under subsection (a)(9)—

''(A) $2,000,000 shall be made available for wake turbulence research; and

''(B) $10,000,000 shall be made available for information security research.

''(5) Of the amount authorized under subsection (a)(10)—

''(A) $3,000,000 shall be made available for wake turbulence research; and

''(B) $12,000,000 shall be made available for information security research.

''(6) Of the amount authorized under subsection (a)(11)—

''(A) $4,000,000 shall be made available for wake turbulence research; and

''(B) $13,200,000 shall be made available for information security research.

''(7) The Administrator is authorized to use amounts authorized under subsection (a), regardless of the appropriations account through which the amounts may be provided, for making grant awards for support of research and development activities.''.

TITLE III—STUDIES

SEC. 301. STUDY OF MARKETS ENABLED BY ENVIRONMENTAL TECHNOLOGIES FOR FUTURE AIRCRAFT.

(a) OBJECTIVE.—The NASA Administrator shall conduct a study to identify and quantify new markets that would be created, as well as existing markets that would be expanded, by the incorporation of the technologies developed pursuant to section 101 into future commercial aircraft. As part of the study, the NASA Administrator shall identify whether any of the performance characteristics specified in section 101(a) would need to be made more stringent in order to create new markets or expand existing markets. The NASA Administrator shall seek input from at least the aircraft manufacturing industry, academia, and the airlines in carrying out the study.

(b) REPORT.—A report containing the results of the study shall be provided to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate within 18 months after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the NASA Administrator $500,000 to carry out this section.

SEC. 302. ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM.

(a) ASSESSMENT.—The FAA Administrator shall enter into an arrangement with the National Research Council for an assessment of the FAA's proposed wake turbulence research and development program. The assessment shall include—

(1) an evaluation of the research and development goals and objectives of the program;

(2) a listing of any additional research and development objectives should be included in the program;

(3) any modifications that will be necessary for the program to achieve the program's goals and objectives on schedule and within the proposed level of resources; and

(4) an evaluation of the roles, if any, that should be played by other Federal agencies, such as NASA and the National Oceanic and Atmospheric Administration, in wake turbulence research and development, and how those efforts could be coordinated.

(b) REPORT.—A report containing the results of the assessment shall be provided to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the FAA Administrator for fiscal year 2004, $500,000 to carry out this section.

SEC. 303. ASSESSMENT OF FUNDAMENTAL AERONAUTICS RESEARCH CAPABILITIES.

(a) ASSESSMENT.—In order to ensure that the Nation retains needed capabilities in fundamental aerodynamics and other areas of fundamental aeronautics research, the NASA Administrator shall enter into an arrangement with the National Research Council for an assessment of the Nation's future requirements for fundamental aeronautics research and the Nation's needs for a skilled research workforce and research facilities commensurate with the requirements. The assessment shall include an identification of any projected gaps and recommendations for what steps should be taken by the Federal Government to eliminate those gaps.

(b) REPORT.—The NASA Administrator shall transmit the assessment described in subsection (a), along with NASA's response to the assessment, to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not later than 2 years after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the NASA Administrator $500,000 for fiscal year 2004 to carry out this section.

By Mr. THOMAS (for himself, Mrs. LINCOLN, Ms. CANTWELL, Mr. INHOFE, Ms. LANDRIEU, Mr. JOHNSON, and Mrs. BOXER):

S. 310. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the ''Seniors Mental Health Access Improvement Act of 2003'' with my distinguished colleague from Arkansas, Mrs. LINCOLN. Specifically, the ''Seniors Mental Health Access Improvement Act of 2003'' permits mental health counselors and marriage and family therapists to bill Medicare for services provided to seniors. This will result in an increased choice of mental health providers for seniors and enhance their ability to access mental health services in their communities.

This legislation is especially crucial to rural seniors who are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns, a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law—as it exists today-compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

It is time the Medicare program recognized the qualifications of mental health counselors and marriage and family therapists as well as the critical role they play in the mental health care infrastructure. These providers go through rigorous training, similar to the curriculum of masters level social workers, and yet are excluded from the Medicare program.

Particularly troubling to me is the fact that seniors have disproportionately higher rates of depression and suicide than other populations. Additionally, 75 percent of the 518 nationally designated Mental Health Professional Shortage Areas are located in rural areas and one-fifth of all rural counties have ''no'' mental health services of any kind. Frontier counties have even more drastic numbers as 95 percent do not have a psychiatrist, 68 percent do not have a psychologist and 78 percent do not have a social worker. It is quite obvious we have an enormous task ahead of us to reduce these staggering statistics. providing mental health counselors and marriage and family therapists the ability to bill Medicare for their services is a key part of the solution.

Virtually all of Wyoming is designated a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 174 psychologists, 37 psychiatrists and 263

clinical social workers for a total of 474 Medicare eligible mental health providers. Enactment of the ''Seniors Mental Health Access Improvement Act of 2001'' will more than double the number of mental health providers available to seniors in my State with the addition of 528 mental health counselors and 61 marriage and family therapists currently licensed in the state.

I believe this legislation is critically important to the health and well-being of our Nation's seniors and I strongly urge all my colleagues to become a cosponsor.

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

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

S. 310

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 ''Seniors Mental Health Access Improvement Act of 2003''.

SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (U), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (V)(iii), by inserting ''and'' after the semicolon at the end; and

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

''(W) marriage and family therapist services (as defined in subsection (ww)(1)) and mental health counselor services (as defined in subsection (ww)(3));''.

(2) DEFINITIONS.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

''(ww)(1) The term 'marriage and family therapist services' means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(2) The term 'marriage and family therapist' means an individual who—

''(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

''(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

''(3) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (4)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(4) The term 'mental health counselor' means an individual who—

''(A) possesses a master's or doctor's degree in mental health counseling or a related field;

''(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.''.

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

''(v) marriage and family therapist services and mental health counselor services;''.

(4) AMOUNT OF PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395*l*(a)(1)) is amended—

(A) by striking ''and (U)'' and inserting ''(U)''; and

(B) by inserting before the semicolon at the end the following: '', and (V) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(W), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under subparagraph (L)''.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), as amended in section 301(a), is amended by inserting ''marriage and family therapist services (as defined in subsection (ww)(1)), mental health counselor services (as defined in section 1861(ww)(3)),'' after ''qualified psychologist services,''.

(6) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

''(vii) A marriage and family therapist (as defined in section 1861(ww)(2)).

''(viii) A mental health counselor (as defined in section 1861(ww)(4)).''.

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking ''or by a clinical social worker (as defined in subsection (hh)(1)),,'' and inserting '', by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (ww)(2)), or by a mental health counselor (as defined in subsection (ww)(4)),''.

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) of the Social Security Act (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting ''or a marriage and family therapist (as defined in subsection (ww)(2))'' after ''social worker''.

(c) AUTHORIZATION OF MARRIAGE AND FAMILY THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the Social Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting ''marriage and family therapist (as defined in subsection (ww)(2)),'' after ''social worker,''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2004.

Mrs. LINCOLN. Mr. President, I am pleased to join my colleague Senator CRAIG THOMAS today in introducing the ''Seniors Mental Health Access Improvement Act of 2003.''

This bill would expand Medicare coverage to Licensed Professional Counselors and Licensed Marriage and Family Therapists. One result of this expanded coverage will be to increase seniors' access to mental health services, especially in rural and underserved areas.

Licensed Professional Counselors and Marriage and Family Therapist are currently excluded from Medicare coverage even though they meet the same education, training, and examination requirements that clinical social workers do. The only difference is that clinical social workers have been covered under Medicare for over a decade.

Why do we need this legislation? The mental health needs of older Americans are not being met. Although the rate of suicide among older Americans is higher than for any other age group, less than three percent of older Americans report seeing mental health professionals for treatment. And going to their primary care physician is simply not enough. Research shows that most primary care providers receive inadequate mental health training, particularly in geriatrics.

Lack of access to mental health providers is one of the primary reasons why older Americans don't get the mental health treatment they need. Not surprisingly, this problem is exacerbated in rural and underserved areas.

Licensed Professional Counselors are often the only mental health specialists available in rural and underserved communities. This is true in my home state of Arkansas, where 91 percent of Arkansans reside in a mental health professional shortage area.

Since there are more Licensed Professional Counselors practicing in my state than any other mental health professional, this legislation will significantly increase the number of Medicare-eligible mental health providers in Arkansas. Licensed Professional Counselors are already serving patients who have private insurance or Medicaid. It is time for Medicare patients to also have access to these professionals.

The bill we are introducing today is an important first step in expanding access to good mental health. By including Licensed Professional Counselors and licensed Marriage and Family Therapists among the list of providers who deliver mental health services to Medicare beneficiaries, we will help ensure that all seniors, no matter where they live, have the opportunity to receive mental health treatment.

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

S. 311. A bill to direct the Secretary of Transportation to issue regulations requiring turbojet aircraft of air carriers to be equipped with missile defense systems, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, today I am introducing a bill that could have a significant impact on reducing the threat of terrorism towards our commercial airlines.

Last November, two shoulder-fired SA–7 missiles were launched at an Israeli airliner as it took off from a Kenyan airport. While these missiles missed their target, they are a clear example of an ever-growing threat to all air travel. A similar incident occurred last May when a U.S. military aircraft in Saudi Arabia was believed to be fired upon, also with an SA–7 missile. Saudi authorities later found an empty launch tube near an airbase used by American aircraft. In both cases, al Qaeda remains the primary suspect.

This is a very real and recognized threat. It is estimated that thousands of shoulder-fired missiles are in the hands of non-state actors, rebel groups, terrorists, and other armed non-military factions. Last May, the FBI warned that given al Qaeda's targeting of the U.S. airline industry and its access to these weapons, airlines and law enforcement agencies should remain alert to the potential use of shoulder-fired missiles against commercial aircraft in the United States.

We all know that terrorists will continue to try to attack us at our weakest points. As we continue to increase the screening and security processes for those boarding our airplanes, it is becoming clear that terrorists will need to find another avenue to attack us. These shoulder-fired missiles may be that next avenue.

The bill I am introducing today would equip all turbojet aircraft used by American aircarriers with missile defense systems. These devices involve a series of sensors that identify an incoming missile and a laser or lamp to fool the missile's guidance system. The work automatically without any action by the pilot.

The U.S. government would pay for the devices for the current turbojet fleet, approximately 6,800 aircraft, at an estimated cost of $1 million per plane.

In the meantime, the bill directs the President to use the National Guard and Coast Guard to patrol areas surrounding airports in order to prevent attacks by shoulder-fired missiles. Because these are heat-seeking missiles, aircraft are most vulnerable at lower levels and when their engines are hottest.

Aircraft missile defense systems work. Countermeasures are already in place on many U.S. military aircraft, where they have proven effective.

Shoulder-fired missiles are a serious threat to our airlines, our economy, and the personal safety of every American airline passenger. With a relatively small investment in proven technology to counter that threat, we can provide further protection to air travellers.

I urge my colleagues to support this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 311

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 ''Commercial Airline Missile Defense Act''.

SEC. 2. REGULATIONS REQUIRING MISSILE DEFENSE SYSTEMS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall issue regulations that require all turbojet aircraft used by an air carrier for scheduled air service to be equipped with a missile defense system.

(b) SCHEDULE FOR INSTALLATION.—The regulations shall establish a schedule for the purchase and installation of such systems on turbojet aircraft currently in service and turbojet aircraft contracted for before the date of issuance of the regulations.

(c) NEW AIRCRAFT.—The regulations shall also require that all turbojet aircraft contracted for on or after the date of issuance of the regulations by an air carrier for scheduled air service be equipped with a missile defense system.

(d) DEADLINES FOR COMMENCEMENT OF INSTALLATION.—The regulations shall require that installation and operation of missile defense systems under the regulations begin no later than December 31, 2003.

SEC. 3. PURCHASE OF MISSILE DEFENSE SYSTEMS BY THE SECRETARY.

The Secretary of Transportation shall purchase and make available to an air carrier such missile defense systems as may be necessary for the air carrier to comply with the regulations issued under section 2 (other than subsection (c)) with respect to turbojet aircraft used by the air carrier for scheduled air service.

SEC. 4. RESPONSIBILITY OF AIR CARRIER.

Under the regulations issued under section 2, an air carrier shall be responsible for installing and operating a missile defense system purchased and made available by the Secretary of Transportation under section 3.

SEC. 5. PROGRESS REPORTS.

Not later than January 1, 2004, and each July 1 and January 1 thereafter, the Secretary of Transportation shall transmit to Congress a report on the progress being made in implementation of this Act, including the regulations issued to carry out this Act.

SEC. 6. INTERIM SECURITY MEASURES

(a) IN GENERAL.—In order to provide interim security before the deployment of missile defense systems for turbojet aircraft required under section 2, the President shall—

(1) exercise the President's authority under title 32, United States Code, to elevate National Guard units to Federal status for the purpose of patrolling areas surrounding airports to protect against the threat posed by missiles and other ordnance to commercial aircraft; and

(2) deploy units of the United States Coast Guard, in coordination with the Secretary of Transportation and the Secretary of Homeland Security, for the purpose of patrolling areas surrounding airports to protect against the threat posed by missiles and other ordnance to commercial aircraft.

(b) PROGRESS REPORT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to Congress a report on the progress being made to implement this section.

SEC. 7. DEFINITIONS.

In this Act, the following definitions apply:

(1) AIRCRAFT AND AIR CARRIER.—The terms ''aircraft'' and ''air carrier'' have the meaning such terms have under section 40102 of title 49, United States Code.

(2) MISSILE DEFENSE SYSTEM.—The term ''missile defense system'' means an appropriate (as certified by the Secretary of Transportation) electronic system that would automatically—

(A) identify when the aircraft is threatened by an incoming missile or other ordnance;

(B) detect the source of the threat; and

(C) disrupt the guidance system of the incoming missile or other ordnance, which is intended to result in the incoming missile or other ordnance being diverted off course and missing the aircraft.

By Mr. ROCKEFELLER (for himself, Mr. CHAFEE, Mr. KENNEDY, Ms. SNOWE, Mr. BAUCUS, Mr. GRASSLEY Mr. CORZINE, Mr. WARNER, Mrs. CLINTON, Ms. COLLINS, Mr. BINGAMAN, Mr. MCCAIN, Mr. BAYH, Mr. DEWINE, Mrs. HUTCHISON, Mrs. LINCOLN, Mr. HATCH, Mr. LAUTENBERG, and Ms. MIKULSKI):

S. 312. A bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce a bill that would promote the health and well-being of America's children by restoring funds to the Children's Health Insurance Program, known as CHIP. CHIP has been an unqualified success, helping millions of children. The program has the potential to help millions more. However, it is only as effective as we make it.

In 1997, I was joined by Senator CHAFEE in introducing the Children's Health Insurance Program as part of the Balanced Budget Act. At that time, 10 million children were uninsured. Today, 4.6 million have coverage; this includes over 21,000 children in the State of West Virginia. I believe the families touched by this program would agree it serves its purpose well.

Unfortunately, this purpose may be seriously undermined. On September 30, 2002, $1.2 billion in unspent CHIP funds reverted back to the national treasury because of a budget compromise. On September 30, 2003, an additional $1.5 billion will be returned to

the treasury. This combined $2.7 billion loss will serve a huge blow to the program. As a result of it, States may be forced to stop accepting new children and may have to cut current participants from their rolls. In the meanwhile, money intended for the care of children will be spent on other initiatives. Healthy kids will go without preventative care, and sick kids will go without treatment or medicine.

However, such a tragedy is preventable. Today, I am joined by Senators CHAFEE, KENNEDY, SNOWE, and others in introducing a bill that would restore full CHIP funding over 2 years and allow the program to continue its enormously important work without cutting the benefits of a single child.

I am pleased to tell you that our legislation enjoys bicameral, bipartisan support and is endorsed by the National Governors Association, NGA. Though it is not a permanent solution to the problems faced by CHIP, this proposal would go far in addressing them. Most notably, it would provide real relief to States struggling to cover beneficiaries under Medicaid and would allow them to offer the care that every child needs and deserves.

In order to achieve this, we must provide States with the resources they need. Today, we have introduced a bill which will do just that. However, this body must make its enactment a priority. The children we serve deserve nothing less.

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

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

S. 312

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

SECTION 1. EXTENSION OF AVAILABILITY OF SCHIP ALLOTMENTS FOR FISCAL YEARS 1998 THROUGH 2001.

(a) EXTENDING AVAILABILITY OF SCHIP ALLOTMENTS FOR FISCAL YEARS 1998 THROUGH 2001.—

(1) RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEARS 1998 AND 1999.—Paragraphs (2)(A)(i) and (2)(A)(ii) of section 2104(g) of the Social Security Act (42 U.S.C. 1397dd(g)) are each amended by striking ''fiscal year 2002'' and inserting ''fiscal year 2004''.

(2) EXTENSION AND REVISION OF RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR 2000.—

(A) PERMITTING AND EXTENDING RETENTION OF PORTION OF FISCAL YEAR 2000 ALLOTMENT.—Paragraph (2) of such section 2104(g) is amended—

(i) in the heading, by striking ''AND 1999'' and inserting ''THROUGH 2000''; and

(ii) by adding at the end of subparagraph (A) the following:

''(iii) FISCAL YEAR 2000 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2000 that were not expended by the State by the end of fiscal year 2002, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2004.''.

(B) REDISTRIBUTED ALLOTMENTS.—Paragraph (1) of such section 2104(g) is amended—

(i) in subparagraph (A), by inserting ''or for fiscal year 2000 by the end of fiscal year 2002,'' after ''fiscal year 2001,'';

(ii) in subparagraph (A), by striking ''1998 or 1999'' and inserting ''1998, 1999, or 2000'';

(iii) in subparagraph (A)(i)—

(I) by striking ''or'' at the end of subclause (I),

(II) by striking the period at the end of subclause (II) and inserting ''; or''; and

(III) by adding at the end the following new subclause:

''(III) the fiscal year 2000 allotment, the amount specified in subparagraph (C)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (C)(ii) for the State to the amount specified in subparagraph (C)(iii).'';

(iv) in subparagraph (A)(ii), by striking ''or 1999'' and inserting '', 1999, or 2000'';

(v) in subparagraph (B), by striking ''with respect to fiscal year 1998 or 1999'';

(vi) in subparagraph (B)(ii)—

(I) by inserting ''with respect to fiscal year 1998, 1999, or 2000,'' after ''subsection (e),''; and

(II) by striking ''2002'' and inserting ''2004''; and

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

''(C) AMOUNTS USED IN COMPUTING REDISTRIBUTIONS FOR FISCAL YEAR 2000.—For purposes of subparagraph (A)(i)(III)—

''(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2000, less the total amount remaining available pursuant to paragraph (2)(A)(iii);

''(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this title in fiscal years 2000, 2001, and 2002 exceed the State's allotment for fiscal year 2000 under subsection (b); and

''(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2000, of the amounts specified in clause (ii).''.

(C) CONFORMING AMENDMENTS.—Such section 2104(g) is further amended—

(i) in its heading, by striking ''AND 1999'' and inserting '', 1999, AND 2000''; and

(ii) in paragraph (3)—

(I) by striking ''or fiscal year 1999'' and inserting '', fiscal year 1999, or fiscal year 2000''; and

(II) by striking ''or November 30, 2001'' and inserting ''November 30, 2001, or November 30, 2002'', respectively.

(3) EXTENSION AND REVISION OF RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR 2001.—

(A) PERMITTING AND EXTENDING RETENTION OF PORTION OF FISCAL YEAR 2001 ALLOTMENT.—Paragraph (2) of such section 2104(g), as amended in paragraph (2)(A)(ii), is further amended—

(i) in the heading, by striking ''2000'' and inserting ''2001''; and

(ii) by adding at the end of subparagraph (A) the following:

''(iv) FISCAL YEAR 2001 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2001 that were not expended by the State by the end of fiscal year 2003, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2005.''.

(B) REDISTRIBUTED ALLOTMENTS.—Paragraph (1) of such section 2104(g), as amended in paragraph (2)(B), is further amended—

(i) in subparagraph (A), by inserting ''or for fiscal year 2001 by the end of fiscal year 2003,'' after ''fiscal year 2002,'';

(ii) in subparagraph (A), by striking ''1999, or 2000'' and inserting ''1999, 2000, or 2001'';

(iii) in subparagraph (A)(i)—

(I) by striking ''or'' at the end of subclause (II),

(II) by striking the period at the end of subclause (III) and inserting ''; or''; and

(III) by adding at the end the following new subclause:

''(IV) the fiscal year 2001 allotment, the amount specified in subparagraph (D)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (D)(ii) for the State to the amount specified in subparagraph (D)(iii).'';

(iv) in subparagraph (A)(ii), by striking ''or 2000'' and inserting ''2000, or 2001'';

(v) in subparagraph (B)—

(I) by striking ''and'' at the end of clause (ii);

(II) by redesignating clause (iii) as clause (iv); and

(III) by inserting after clause (ii) the following new clause:

''(iii) notwithstanding subsection (e), with respect to fiscal year 2001, shall remain available for expenditure by the State through the end of fiscal year 2005; and''; and

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

''(D) AMOUNTS USED IN COMPUTING REDISTRIBUTIONS FOR FISCAL YEAR 2001.—For purposes of subparagraph (A)(i)(IV)—

''(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2001, less the total amount remaining available pursuant to paragraph (2)(A)(iv);

''(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this title in fiscal years 2001, 2002, and 2003 exceed the State's allotment for fiscal year 2001 under subsection (b); and

''(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2001, of the amounts specified in clause (ii).''.

(C) CONFORMING AMENDMENTS.—Such section 2104(g) is further amended—

(i) in its heading, by striking ''AND 2000'' and inserting ''2000, AND 2001''; and

(ii) in paragraph (3)—

(I) by striking ''or fiscal year 2000'' and inserting ''fiscal year 2000, or fiscal year 2001''; and

(II) by striking ''or November 30, 2002,'' and inserting ''November 30, 2002, or November 30, 2003,'', respectively.

(4) EFFECTIVE DATE.—This subsection, and the amendments made by this subsection, shall be effective as if this subsection had been enacted on September 30, 2002, and amounts under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) from allotments for fiscal years 1998 through 2000 are available for expenditure on and after October 1, 2002, under the amendments made by this subsection as if this subsection had been enacted on September 30, 2002.

(b) AUTHORITY FOR QUALIFYING STATES TO USE PORTION OF SCHIP FUNDS FOR MEDICAID EXPENDITURES.—Section 2105 of the Social Security Act (42 U.S.C. 1397ee) is amended by adding at the end the following:

''(g) AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—

''(1) STATE OPTION.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, with respect to allotments for fiscal years 1998, 1999, 2000, 2001, for fiscal years in which such allotments are available under subsections (e) and (g) of section 2104, a qualifying State (as defined in paragraph (2)) may elect to use not more than 20 percent of such allotments (instead

of for expenditures under this title) for payments for such fiscal year under title XIX in accordance with subparagraph (B).

''(B) PAYMENTS TO STATES.—

''(i) IN GENERAL.—In the case of a qualifying State that has elected the option described in subparagraph (A), subject to the total amount of funds described with respect to the State in subparagraph (A), the Secretary shall pay the State an amount each quarter equal to the additional amount that would have been paid to the State under title XIX for expenditures of the State for the fiscal year described in clause (ii) if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)) of such expenditures.

''(ii) EXPENDITURES DESCRIBED.—For purposes of clause (i), the expenditures described in this clause are expenditures for such fiscal years for providing medical assistance under title XIX to individuals who have not attained age 19 and whose family income exceeds 150 percent of the poverty line.

''(iii) NO IMPACT ON DETERMINATION OF BUDGET NEUTRALITY FOR WAIVERS.—In the case of a qualifying State that uses amounts paid under this subsection for expenditures described in clause (ii) that are incurred under a waiver approved for the State, any budget neutrality determinations with respect to such waiver shall be determined without regard to such amounts paid.

''(2) QUALIFYING STATE.—In this subsection, the term 'qualifying State' means a State that—

''(A) as of April 15, 1997, has an income eligibility standard with respect to any 1 or more categories of children (other than infants) who are eligible for medical assistance under section 1902(a)(10)(A) or under a waiver under section 1115 implemented on January 1, 1994, that is up to 185 percent of the poverty line or above; and

''(B) satisfies the requirements described in paragraph (3).

''(3) REQUIREMENTS.—The requirements described in this paragraph are the following:

''(A) SCHIP INCOME ELIGIBILITY.—The State has a State child health plan that (whether implemented under title XIX or this title)—

''(i) as of January 1, 2001, has an income eligibility standard that is at least 200 percent of the poverty line or has an income eligibility standard that exceeds 200 percent of the poverty line under a waiver under section 1115 that is based on a child's lack of health insurance;

''(ii) subject to subparagraph (B), does not limit the acceptance of applications for children; and

''(iii) provides benefits to all children in the State who apply for and meet eligibility standards on a statewide basis.

''(B) NO WAITING LIST IMPOSED.—With respect to children whose family income is at or below 200 percent of the poverty line, the State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan.

''(C) ADDITIONAL REQUIREMENTS.—The State has implemented at least 3 of the following policies and procedures (relating to coverage of children under title XIX and this title):

''(i) UNIFORM, SIMPLIFIED APPLICATION FORM.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State uses the same uniform, simplified application form (including, if applicable, permitting application other than in person) for purposes of establishing eligibility for benefits under title XIX and this title.

''(ii) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under section 1902(l) or this title with respect to children.

''(iii) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State provides that eligibility shall not be regularly redetermined more often than once every year under this title or for children described in section 1902(a)(10)(A).

''(iv) SAME VERIFICATION AND REDETERMINATION POLICIES; AUTOMATIC REASSESSMENT OF ELIGIBILITY.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State provides for initial eligibility determinations and redeterminations of eligibility using the same verification policies (including with respect to face-to-face interviews), forms, and frequency as the State uses for such purposes under this title, and, as part of such redeterminations, provides for the automatic reassessment of the eligibility of such children for assistance under title XIX and this title.

''(v) OUTSTATIONING ENROLLMENT STAFF.—The State provides for the receipt and initial processing of applications for benefits under this title and for children under title XIX at facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(l)(2)(B) consistent with section 1902(a)(55).''.

Mr. CHAFFEE. Mr. President, I am pleased to join Senator ROCKEFELLER and others today in introducing a bipartisan compromise proposal to extend expiring State Children's Health Insurance Program, SCHIP, funds. I am pleased that we recently secured the commitment of Budget Chairman NICKLES to include funding in the fiscal year 2004 budget resolution for this important proposal, as well as the commitment of Finance Chairman GRASSLEY to address this issue quickly in the Finance Committee.

This legislation will allow States to continue using $1.2 billion in funds through fiscal year 2004 that were originally allocated for fiscal years 1998 and 1999, and that reverted to the Federal Treasury on September 30, 2002. This provision extends for one additional year the availability of $1.5 billion in SCHIP funds that are scheduled to expire by the end of fiscal year 2003. This legislation also applies a redistribution formula to the unspent fiscal year 2000 and 2001 allotments, allowing 50 percent of each year's unspent money to be retained by states that have not used their entire allotment, with the remaining 50 percent of unspent money being redistributed to states that have spent all of the respective year's allotment.

This compromise will prevent States from losing their unexpended SCHIP allotments and will allow other States, such as Rhode Island, to receive redistributed funds they need to continue providing health insurance to children. Without this compromise, the result could be a reduction of up to $2.7 billion for children's health programs throughout the United States. This would undermine the overwhelming success of state SCHIP programs in providing quality health coverage to millions of uninsured children. Starting this year, States would have no choice but to begin imposing severe enrollment cutbacks; eligible children who are not yet enrolled in the program would continue to go without health insurance.

Preserving the expiring funds is essential to guaranteeing that nearly one million children will not lose their health insurance. The Office of Management and Budget recently projected that the number of children insured through SCHIP will fall by 900,000 between Fiscal Years 2003 and 2006 unless appropriate congressional action is taken to restore the expiring funds.

At a time when our Nation's uninsured rate continues to climb above 40 million, it makes little sense to take away Federal funding from States that are desperately trying to find and enroll needy children. This legislation is crucial to many States, including my state of Rhode Island. Without this remedy, Rhode Island is set to run out of SCHIP funds by fiscal year 2004. At 4.5 percent, Rhode Island currently has the lowest uninsured rate of any State in the Nation for children. This bill will enable Rhode Island to continue offering health coverage to this vulnerable population.

I urge my colleagues to join Senator ROCKEFELLER and me in supporting this important legislation. It is a crucial step toward ensuring that our Nation's children will have long-term access to quality health insurance.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in introducing a bipartisan bill to extend the availability of the unused funds in the Children's Health Insurance Program, so that hundreds of thousands of children can retain their health coverage, and so that the CHIP program can continue to grow.

We recently celebrated the fifth anniversary of the CHIP program. Over its relatively short life, the program has served children across America, providing health coverage for those who would be otherwise uninsured. Last year, over 4.5 million children received health insurance through CHIP or through Medicaid expansions under CHIP, including 105,000 children in Massachusetts. Health insurance provides children with a healthy start in life, and CHIP is important in providing that healthy start for millions of children in moderate-income working families.

Unfortunately, because of a technical provision in the law, $1.2 billion in unspent CHIP funds reverted to the Treasury last October. Another $1.5 billion will revert to the Treasury this October if Congress fails to act. We know that 20 States are projected to run out of CHIP funds soon, including 5 States—Alaska, Arizona, Maryland, New Jersey, and Rhode Island—that are projected to run out of money as early as next year.

It makes no sense to allow funds to revert to the Treasury when there is so much unmet need. Some States have not been able to use all their CHIP

funds within the allotted period in current law. Yet some of these same States will run short of funds in the very near future, forcing them to drop children from their programs. One of our Nation's most fundamental principles should be to give every child the opportunity to succeed in life. But that principle rings hollow if children must fact a lifetime of disability and illness because they did not have needed health care in their early years.

That is why this bill we introduce today is so important. It enables States to maintain and expand their CHIP programs. It lets States keep a portion of their unspent funds that would otherwise expire. It reallocates the rest of the funds to States that have already used their original allocation to enroll children in their program and are ready, willing, and able to enroll even more children. This reallocation is vital to enrolling the highest possible number of children in CHIP. The retention and reallocation of these funds will prevent an unacceptable loss of coverage for the Nation's children.

Our legislation moves us one step closer to fulfilling the promise that all children should have adequate health insurance coverage. I urge my colleagues to support this bipartisan legislation, so that we can give the Nation's children the healthy start they deserve.

Ms. SNOWE. Mr. President, I am pleased to join with my colleagues today in introducing our legislation restoring funding for the State Children's Health Insurance Program, SCHIP. I would like to thank my colleagues for their willingness to work with me to secure the deal that has led to the introduction of this legislation and ultimately its signature into law. SCHIP is essential to ensuring continued health care coverage for America's children.

During debate over the Omnibus appropriations bill, I worked with my colleagues to secure an agreement that will restore $2.7 billion in expired, or soon to expire, SCHIP funding. This compromise has the support of our Nation's governors and will ensure that this funding remains in the program and continues to provide children with access to the care that is vital to their healthy development.

I especially appreciate the willingness of Majority Leader FRIST, Finance Committee Chairman GRASSLEY and Budget Committee Chairman NICKLES to work with us during the omnibus debate to develop the agreement. Because of their commitment to finding a solution, we are able to move forward with this important policy, the first step being introduction of this bill.

I believe the agreement that I was able to craft with my colleagues is the most appropriate way to restore the SCHIP funding. Because the budget resolution adopted by the House of Representatives does not include adequate budget authority to restore this funding, the floor amendment that I planned to offer to the omnibus appropriations bill would have been subject to a budget point of order in the House. Given that this point of order would have laid against the provision, the likelihood that the House would have stripped the provision during conference was great. In light of those circumstances, I believe that the agreement I negotiated is the most appropriate way to ensure that this funding is restored.

The agreement that was struck would, in exchange for withdrawing the amendment that filed to the omnibus appropriations bill to restore SCHIP funding, provide the support of the Majority Leader and Chairmen GRASSLEY and NICKELS to make necessary changes to remove the budget hurdles that have prevented this legislation from being enacted.

Specifically, Senator NICKLES has provided his commitment to reallocate through the Fiscal Year 04 budget process additional budget authority for SCHIP in Fiscal Year 03 and Fiscal Year 04. I am confident that under Senator NICKLES' leadership, the budget process will move smoothly and expeditiously and that we will be able to speed the adoption of this proposal in both the Senate and House and Representatives.

Further, Chairman GRASSLEY has agreed that as soon as the necessary budget adjustments are made he will move this bill through his committee. Again, under his strong leadership I am confident that we will get this done.

Finally, Majority Leader FRIST has agreed to place the legislation on the Senate calendar as soon as it is reported from the Finance Committee.

I might add that while I am aware that this agreement was forged in the Senate, the underlying policy contained in this bill was developed through a bipartisan, bicameral process led by Senators GRASSLEY and BAUCUS last fall. I hope that the House of Representatives will work with us to make the necessary changes to the Fiscal Year 03 and Fiscal Year 04 budget allocations and to see this legislation enacted into law in a timely manner.

How it works is this, once passed, our legislation will restore $2.7 billion in SCHIP funding that has either reverted to the treasury or is scheduled to revert to HHS for redistribution. On October 1, 2002, $1.2 billion reverted to the treasury in unspent SCHIP funding from 1998 and 1999. If we do not recapture this funding, it will be lost to the program. Our agreement allows the states to reclaim this unspent money and provides until the end of Fiscal Year 04 to spend it on health insurance provided by SCHIP.

The policy contained in this legislation also strikes a compromise between States that have spent all of their 2000 and 2001 allotments, and those that have not, by dividing the funding evenly between them. Those States that have not spent all of their allocations will be able to retain half of their funding, while the remaining States will receive additional allotments from the redistributed funding.

It also rewards those States that used Medicaid to expand access to health care for low income children prior to the creation of SCHIP, by allowing them to access 20 percent of their SCHIP funding to serve this population. this compromise has the endorsement of the National Governors Association and children's health advocates from across the country.

In my home State of Maine, where we are using SCHIP to insure over 14,500 children, this proposal will allow the State to keep $13.24 million in SCHIP funding and will provide until the end of Fiscal Year 04 to spend it. In Maine, $13.24 million will help provide health care assistance to a lot of children, children who otherwise would not have access to immunizations, well-baby visits and yearly check-ups.

While I agreed to forgo the appropriations process to enact this policy change, I certainly have not abandoned my effort to restore the funding. If in fact, the introduction of this legislation should demonstrate that I am more committed than ever to seeing the SCHIP funding restored. What's more, the Majority Leader and Chairs of the Finance and Budget Committees have provided their support to see this important legislation enacted into law. Adding their endorsement to this effort, which already has garnered strong bipartisan support, certainly will speed its passage.

Again, I appreciate the support of my colleagues and look forward to working together to advance this critical policy.

Mrs. CLINTON. Mr. President, today, we need to address the impending crisis that may leave thousands of children in New York and around the country without health insurance or access to health care.

The State Children's Health Insurance Program, or SCHIP, has been remarkably successful in providing for the health of needy children whose parents would otherwise be unable to afford health insurance. New York has been on the frontlines of this effort, implementing its Child Health Plus program even before the Federal Government recognized the promise of CHIP and began committing Federal funds. Thanks to those Federal funds, New York has been able to expand its program. I'm proud to say that as of November 2002, we have been able to enroll 475,000 children and thereby make a significant dent in the number of uninsured children in my State.

Those accomplishments aside, we still have much work to do. Estimates of the number of SCHIP or Medicaid eligible children in New York who are not currently enrolled range from 200,000 to 400,000. As the economy continues to slip, and more hardworking Americans lose their jobs or their benefits, I fear that these numbers will only increase. Now more than ever, children across our Nation depend on SCHIP to

help them obtain the health care they need.

I had hoped that the recent Senate passed omnibus appropriations bill would act to preserve SCHIP. Incredibly, just when the uninsured are increasing, SCHIP funding is being cut. Just when State budgets are disintegrating, $2.7 billion of previously allocated SCHIP money is flowing out of states and back to the Federal treasury. Indeed, the Office of Management and Budget projected earlier this year that the number of children insured through SCHIP will fall by 900,000 between Fiscal Years 2003 and 2006 unless appropriate congressional action is taken to restore the expiring funds.

This is why I support the bill introduced by my colleagues, Senator ROCKEFELLER and Senator CHAFEE. Their legislation would sustain SCHIP programs throughout the country, and save New York from losing $526 million in unspent 1998/1999 funds. This bill extends the deadline for States set to return funds to the Federal treasury another two years. I also support the measure to redistribute the portion of unspent funds to States. This year, New York's annual allotment will not cover one-half of the Federal share of its program expenditures. New York is counting on those redistributed funds to make up the shortfall.

In the last Congress, I had supported measures to fix SCHIP so that States could continue to take care of their children. I was proud to co-sponor Senate bill 2860, also introduced by Senator ROCKEFELLER. And in the waning days of the last session, we were very close to a solution. We had a good proposal supported by members of both parties, in both houses of Congress, to help States in their efforts to insure their children. Unfortunately, because of the objections of a few, we were unable to accomplish our goal before the session ended. Without changes in the SCHIP program, I fear that many children in New York and around the country will be left without adequate health care.

Our support of SCHIP will make a critical difference in the health of our children, and that support must come now. Already, nearly $1.2 billion in Federal funds have expired and reverted to the treasury on September 30. What's more, CMS is delaying redistribution of unspent 2000 funds because it is unsure of what formula we in Congress will ultimately set. State governments are being forced to draft their budgets without knowing what Federal funds will be available. The time has come to fix this problem, and I strongly urge my colleagues to support this bill.

Additionally, in the long term, we must make a commitment to strengthen SCHIP which has already proven so effective in insuring so many of our Nation's children. The initial formula that set each State's annual allotment has left many States with money that they will never spend, while short-changing States that have a higher burden of uninsured children. While the redistribution of funds has helped mitigate this inequity somewhat, we need to improve the primary allocation formula to more accurately account for each State's uninsured populations.

Looking further ahead, as SCHIP enrollment increases, more States will exhaust their yearly allotments, as New York does now. This will mean smaller amounts of unspent funds to be distributed to a larger pool of States. Without significant changes, the long-term health of the program is in jeopardy. I look forward to working with my colleagues in the future to address these fundamental issues, but until then, I urge all of my colleagues to support this bill.

Mr. MCCAIN. Mr. President, I am pleased to join Senators ROCKEFELLER, CHAFEE and a bipartisan group of my colleagues in introducing a bill to restore funding which was previously allocated to the State Children's Health Insurance Program, SCHIP.

Established in 1997 as part of the Balanced Budget Act, SCHIP was developed as a means for states to provide basic health coverage for uninsured children of low income families, who are not eligible for coverage under Medicaid. Through the Fedeal-State matching program, SCHIP has provided coverage for millions of uninsured children. In fiscal year 2001, 4.4 million children were enrolled in SCHIP. Today every State in the country, five territories, and the District of Columbia are using SCHIP to develop innovative programs to expand health coverage to even more children.

In my home State of Arizona, our SCHIP program, KidsCare, was developed to provide low income children with medical, dental, and vision coverage. KidsCare has successfully enrolled almost 50,000 uninsured children and is anticipating reaching 60,000 by fiscal year 2004. When Arizona found that children are more likely to received health care if their parents also have access, and the flexibility of SCHIP enabled Arizona to expand its program. Last October Arizona began covering not just children, but also their parents. Arizona now provides health coverage to almost 8,000 uninsured parents. Although a substantial number of eligible children and parents still need coverage, I believe this relatively young program is nothing short of a success.

Due to Congressional inaction, approximately $2.7 billion of unspent SCHIP funding reverted to the Treasury at the end of last year. The bill we are introducing today would return that money to SCHIP, ensuring that funds are allocated to States that need more funding to continue existing programs, while allowing other States to develop new and innovative programs to help our Nation's children get access to health care.

The number of uninsured Americans reached 41 million in 2001 and continues to rise. However SCHIP is successfully reducing those numbers for one of the most vulnerable populations in our Nation, our children. I hope the Senate will act expeditiously on this important legislation to return the funds that belong in SCHIP and to ensure that we are expanding, not reducing, the number of children covered through this innovative program.

By Mr. KENNEDY (for himself, Mr. GREGG, Mr. FRIST, and Mr. BINGAMAN):

S. 314. A bill to make improvements in the Foundation for the National Institutes of Health; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator GREGG, Senator FRIST, and Senator BINGAMAN in introducing legislation to improve the role of the Foundation for the National Institutes of Health.

The Foundation for the National Institutes of Health Improvement Act that we introduce today makes several improvements in the 1990 law that established the Foundation. Most significantly, the bill assures that the Foundation will receive $500,000 from the NIH to support its administrative and operating expenses. These funds will enable the Foundation to use its resources for the actual support of projects to strengthen NIH programs, rather than raise money for its own expenses. In addition, the bill makes clear that the NIH Director and the Commissioner of Food and Drugs are ex officio members of the Foundation's board of directors.

Congress established the Foundation to raise private funds to support the research of the NIH. Since its incorporation as a private, nonprofit organization in Maryland 7 years ago, for every $1 that the Foundation has received in support from the NIH, it has raised $13 in private funds to support the work of NIH.

By last fall, the Foundation was managing 20 programs with multi-year revenue and funding goals of over $45 million. For example, the Edmond J. Safra Family Lodge on the NIH campus will be completed in the summer of 2004 using private funds donated through the Foundation, with services and land donated by the NIH. Families of patients receiving in-patient cancer treatment at the NIH Clinical Center will have the Lodge as a place to stay, at no cost to them.

In addition, the Foundation has formed partnerships with the NIH to develop new cancer treatments, to identify biomarkers for osteoarthritis, and to build on the promise of genomics. Through a public-private partnership, the Foundation helped accelerate the sequencing of the mouse genome. The Foundation is also collecting private funds to study drugs in children. On January 26, 2003, Bill Gates announced a gift to the NIH through the Foundation of $200 million

over the next 10 years to support research on global health priorities. Clearly, the Foundation's role with the NIH will grow productively in the coming years.

I urge my colleagues in the Senate to support this legislation, so that the Foundation can continue its effective support of the work and mission of the NIH. 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. 314

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 ''Foundation for the National Institutes of Health Improvement Act''.

SEC. 2. NATIONAL INSTITUTES OF HEALTH ESTABLISHMENT AND DUTIES.

Section 499 of the Public Health Service Act (42 U.S.C. 290b) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by amending subparagraph (D)(ii) to read as follows:

''(ii) Upon the appointment of the appointed members of the Board under clause (i)(II), the terms of service as members of the Board of the ex officio members of the Board described in clauses (i) and (ii) of subparagraph (B) shall terminate. The ex officio members of the Board described in clauses (iii) and (iv) of subparagraph (B) shall continue to serve as ex officio members of the Board.''; and

(ii) in subparagraph (G), by inserting ''appointed'' after ''that the number of'';

(B) by amending paragraph (3)(B) to read as follows:

''(B) Any vacancy in the membership of the appointed members of the Board shall be filled in accordance with the bylaws of the Foundation established in accordance with paragraph (6), and shall not affect the power of the remaining appointed members to execute the duties of the Board.''; and

(C) in paragraph (5), by inserting ''appointed'' after ''majority of the'';

(2) in subsection (j)—

(A) in paragraph (2), by striking ''(d)(2)(B)(i)(II)'' and inserting ''(d)(6)''; and

(B) in paragraph (10), by striking ''of Health.'' and inserting ''of Health and the National Institutes of Health may accept transfers of funds from the Foundation.''; and

(3) by striking subsection (l) and inserting the following:

''(l) FUNDING.—From amounts appropriated to the National Institutes of Health, for each fiscal year, the Director of NIH shall transfer $500,000 to the Foundation.''.

By Mr. LEAHY (for himself, Mr. DASCHLE, and Mr. REID):

S. 315. A bill to support first responders to protect homeland security and prevent and respond to acts of terrorism; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce the First Responders Partnership Grant Act of 2003. I thank the Democratic Leader, Senator DASCHLE, and Assistant Democratic Leader, Senator REID, for joining me as original cosponsors of this legislation that will supply our nation's first responders with the support they so desperately need to protect homeland security and prevent and respond to acts of terrorism.

I want to begin by thanking each of our Nation's brave firefighters, emergency rescuers, law enforcement officers, and other first responder personnel for the jobs they do for the American public day in and day out. Our public safety officers are often the first to respond to any crime or emergency situation. On September 11, the Nation saw that the first on the scene at the World Trade Center were the heroic firefighters, police officers and emergency personnel of New York City. These real-life heroes, many of whom gave the ultimate sacrifice, remind us of how important it is to support our State and local public safety partners.

But while we ask our Nation's first responders to defend us as never before on the front lines against the dark menace of domestic terrorism, we have failed to supply them with the Federal support they need and deserve to protect us, as we expect and need them to protect us.

Since March 12, 2002, the Federal Homeland Security Advisory System has kept State and local first responders on Yellow Alert, an ''elevated'' threat level declared when there is a significant risk of terrorist attacks, requiring increased surveillance of critical locations. On top of this, from September 10 to September 24 last year, Attorney General Ashcroft declared our country at Orange Threat level, a ''high'' condition indicating a high probability of a terrorist attack and when additional precautions by first responders are necessary at public events. Only hours ago, in fact, counterterrorism officials warned that the threat of terrorist attacks on U.S. soil is at a higher level than in previous months due to the possibility of impending military action against Iraq. Debate has already begun at the new Department of Homeland Defense on whether to put out an alert warning or to actually raise the national threat level to Orange again.

Counties, cities and towns in my home state of Vermont and across the U.S. find themselves overwhelmed by increasing homeland security costs required by the Federal government. Indeed, the National Governors Association estimates that states incurred around $7 billion in security costs over the past year alone. As a result, the national threat alerts and other Federal homeland security requirements have become unfunded Federal mandates on our State and local governments. Rutland County Sheriff R.J. Elrick, President of the Vermont Sheriffs' Association, recently wrote to me, ''We are in dire need of financial support to keep our personnel trained and equipped to meet the challenges here at home as we continue our vigilant commitment to fight terrorism.''

I will ask unanimous consent to place after my remarks in the RECORD the letter from the Vermont Sheriffs' Association, as well as letters from the Professional Firefighters of Vermont, the Vermont Ambulance Association, and the Vermont Association of Police Chiefs, and Chief Doug Hoyt of Montpelier, Chief Anthony Bossi of Rutland City, Chief David Demag of Essex, and Chief Jeffery Whitesell of Winhall.

When terrorists strike, first responders are and will always be the first people we turn to for help. We place our lives and the lives of our families and friends in the hands of these officers, trusting that when called upon they will protect and save us.

Just how, without supplying them with the necessary resources, do we expect our Nation's first responders to realistically carry out their duties?

Our State and local law enforcement officers, firefighters and emergency personnel are full partners in preventing, investigating and responding to terrorist acts. They need and deserve the full collaboration of the Federal government to meet these new national responsibilities.

Washington is buzzing about the literally hundreds of billions of additional dollars the President plans to ask Congress to provide for our military services to fight the war on terrorism abroad. The same cannot be said for helping security here at home, which is shamefully overlooked. For a year and a half I have been working hard to remedy that, with allies like our distinguished Democratic Leader and Assistant Democratic Leader, and New York Senators SCHUMER and CLINTON. As former chair and now ranking member of the Judiciary Committee, I have made it a high priority to evaluate and meet the needs of our first responders.

For these reasons, I am proud to introduce the First Responders Partnership Grant Act to give our nation's law enforcement officers, firefighters and emergency personnel the resources they need to do their jobs. Our legislation will establish a grant program at the Department of Justice to provide $4 billion nationwide in annual Federal funds to support State and local public safety officers in their efforts to protect homeland security and prevent and respond to acts of terrorism.

Similar to the highly successful Department of Justice Community Oriented Policing Services and the Bulletproof Vest Partnership Grant Programs, the First Responder Grants will be made directly to State and local government units for overtime, equipment, training and facility expenses to support our law enforcement officers, firefighters and emergency personnel.

The First Responder Grants may be used to pay up to 90 percent of the cost of the overtime, equipment, training or facility. In cases of fiscal hardship, the Justice Department can waive the local match requirement of 10 percent to provide federal funds for communities that cannot afford the local match.

In a world shaped by the violent events of September 11, day after day we call upon our public safety officers to remain vigilant. We not only ask them to put their lives at risk in the line of duty, but also, if need be, give their lives to protect us.

If we take time to listen to our Nation's State and local public safety partners, they will tell us that they welcome the challenge to join in our national mission to protect our homeland security. But we cannot ask our firefighters, emergency personnel, and law enforcement officers to assume these new national responsibilities without also providing new federal support.

The First Responders Partnership Grant Program will provide the necessary federal support for our state and public safety officers to serve as full partners in the fight to protect our homeland security. We need our first responders for the security and the lifesaving help they bring to our communities. All they ask is for the tools they need to do their jobs for us. And for the sake of our own security, that is not too much to ask.

I ask unanimous consent that the letters I referred to be printed in the RECORD.

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

RUTLAND COUNTY
SHERIFF'S DEPARTMENT,
Rutland, VT, January 31, 2003.

Senator PATRICK LEAHY,
U.S. Senate, Dirksen Office Building, Washington, DC.

SENATOR LEAHY: I am responding on behalf of the Vermont Sheriffs' Association, having reviewed your current proposed bill entitled, ''First Responders Partnership Grant Program''.

The Vermont Sheriffs have unanimously voted to endorse your proposed bill as written. As you know all too well, we are being asked to perform on the front lines at a level never before seen, and with fewer resources at the local level. We are in dire need of financial support to keep our personnel trained and equipped to meet the challenges here at home as we continue our vigilant commitment to fight terrorism.

Your continued commitment to the men and women in the trenches is applauded and appreciated. We remain supportive of your efforts and look forward to hearing more as the bill progresses in Congress.

Sincerely,

R.J. ELRICK,
Sheriff,
President—Vermont Sheriffs' Association.

PROFESSIONAL FIREFIGHTERS
OF VERMONT,
White River Jct., VT, January 17, 2003.

Hon. PATRICK LEAHY,
Federal Building,
Montpelier, VT.

DEAR SENATOR LEAHY: I am writing to express my support for the proposed First Responder Partnership Grant Act of 2003.

As you are well aware it is the local public safety officers who are our Nations first line of defense whenever tragedy strikes. Since we are this vital link in protecting homeland security it is extremely important that we have the resources needed to safely complete this task. The First Responders Grant Act provides the financial assistance that local public safety officers need so greatly.

In closing I wish to thank you for your efforts, and once again express my support and gratitude for the First Responders Grant Act of 2003. If I can be of any further assistance please feel free to contact me.

Sincerely,

STEVEN LOCKE,
President.

VERMONT AMBULANCE ASSOCIATION,
Rutland, VT, January 29, 2003.

Hon. PATRICK LEAHY,
U.S. Senate, Russell Building,
Washington, DC.

DEAR SENATOR LEAHY: The Vermont Ambulance Association and it's membership strongly support The First Responders Partnership Grant Act to be introduced in the United States Senate.

This legislation will bring much needed dollars into local emergency response systems to be better prepared to respond to acts of terrorism and serve our communities in homeland security. We very much appreciate your support of Emergency Services. Particularly important in this bill is the fact that it recognizes there are multiple types of public and private departments and services that protect and serve communities and they all will be eligible for funding.

Again, we support and thank you for your commitment to Vermont's Emergency Services and to the safety and security of the citizens we serve.

Sincerely,

JAMES A. FINGER,
President V.A.A.

VERMONT ASSOCIATION OF
CHIEFS OF POLICE,
January 31, 2003.

Senator PATRICK J. LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: Having been informed of ''The Leahy First Responders Partnership Grant Act'', I would like you to know that Vermont Chief's of Police Association wholeheartedly supports the concept. Public safety officials throughout the nation have been required to address a whole new set of issues since September 11, 2001. These issues have required the need for new training, changes in priorities and thoughts towards security and safety of first responders, often without the addition of any new resources. A grant program of this nature will greatly enhance the ability of law enforcement, and other first responders, to continue to pursue their individual missions and to preserve the individual freedom and security that everyone deserves.

I must add that I feel that it would be beneficial to afford local entities the opportunity to apply directly to the government for these grants due to the fact each entity would have the best knowledge of what their individual needs are.

If the Vermont Association of Chiefs of Police can be of any assistance in this endeavor, please feel free to contact me at anytime.

Sincerely,

BRETT R. VAN NOORDT,
President.

MONTPELIER POLICE DEPARTMENT,
Montpelier, VT, January 22, 2003.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: Thank you for your staff's notification of the First Responder Partnership Grant Program For Public Safety Officers. Jessica has been very helpful in providing details of your introduction of this legislation.

I know that you are keenly aware of the need for local government to be able to access funding in the area of homeland security. Montpelier as well as select larger communities based on location and function have greater responsibilities in this new age of defense. At the same time the State of Vermont is no different from many other states in the country that are experiencing critical financial decisions to meet the ''normal'' demands of government. Shouldering the burden for national defense only adds to the critical needs.

The current administration cannot realistically believe that a DOJ funding program that goes to the State of Vermont which result in a trickle of $3,000 to the Montpelier Police Department for a radio actually meets the response needs for government in the Capital City of Vermont.

In support of this legislative initiative I would encourage your office to advocate strongly for the local units of government to have a larger role and voice in the distribution of these funds. In Vermont, as you well know, the State Government generally controls what occurs on the local level and the temptation with such a large amount of money is too great to have local communities excluded.

Again, thank you for your efforts and those of your staff on behalf of law enforcement and the City of Montpelier. It is always a pleasure when I call your office. I hope to be in the Washington area between March 29 and April 1 and hope that I will be able to stop and visit and perhaps we can talk about this and other matters important to Montpelier and the State of Vermont.

Sincerely,

DOUGLAS S. HOYT,
Chief of Police.

RUTLAND POLICE DEPARTMENT,
Rutland, VT, January 30, 2003.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: As the Chief of Policy of The City of Rutland, Vermont and the immediate past president of the Vermont Association of Chiefs of Police I am writing this letter to support your efforts to introduce and pass the ''First Responders Partnership Grant Act of 2003.''

This grant program will help us at a local level to be able to have the resources we need to do our jobs in protecting the citizens of Rutland and Vermont.

Thank you for your strong support of Law Enforcement and everything you have done for Rutland Police Department. As always please feel free to contact me if there is anything more I can do to help you.

Sincerely,

ANTHONY L. BOSSI,
Chief of Police.

ESSEX POLICE DEPARTMENT,
Essex Junction, VT, January 23, 2003.

Senator PATRICK J. LEAHY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: Having been informed of ''The Leahy First Responders Partnership Grant Act'', I would like you to know that I wholeheartedly support the concept. Public safety officials throughout the nation have been required to address a whole new set of issues since September 11, 2001. These issues have required the need for new training, changes in priorities and thoughts towards security and safety of first responders, often without the addition of any new resources. A grant program of this nature will greatly enhance the ability of law enforcement, and other first responders, to continue to pursue their individual missions

and to preserve the individual freedom and security that everyone deserves.

I must add that I feel that it would be beneficial to afford local entities the opportunity to apply directly to the government for these grants due to the fact each entity would have the best knowledge of what their individual needs are.

If I can be of any assistance in the endeavor, please feel free to contact me at anytime.

Sincerely,

DAVID E. DEMAG,
Chief of Police.

WINHALL POLICE & RESCUE,
Bondville, VT, January 22, 2003.

Senator PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I have read and understand the ''Leahy First Responders Partnership Grant Program.'' The legislation as proposed will greatly assist local and state agencies combat terrorism and educate our citizens. I am in support of this legislative initiative. Local first responders are a very valuable entity in this war on terrorism. Thank you for not forgetting us.

Sincerely,

JEFFERY L. WHITESELL,
Chief of Police & Rescue.

By Mr. CORZINE (for himself and Mr. KENNEDY):

S. 316. A bill to amend part A of title IV of the Social Security Act to include efforts to address barriers to employment as a work activity under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

Mr. CORZINE. Mr. President, I am honored and pleased to introduce legislation today that Senator KENNEDY and I introduced with Senator Wellstone in the 107th Congress. Today, Senator KENNEDY and I reintroduce the Chance to Succeed Act, legislation that will give TANF recipients with barriers to employment the tools they need to address these issues and move into employment.

Studies show that between 44 and 64 percent of TANF recipients have multiple barriers to employment. These barriers range from mental health issues and substance abuse problems to learning disabilities, limited English proficiency and homelessness. We must assist TANF families in meeting their work and parenting obligations, while at the same time addressing the multiple barriers undermining their economic security.

The Chance to Succeed Act encourages states to better serve the needs of TANF recipients with barriers to employment by giving States broad flexibility to place TANF recipients in barrier-removal activities and count recipients participating in such activities toward Federal work participation rates for at least six months. In addition to providing families the time they need to seek services, the legislation would assist States in developing a screening, assessment and service delivery system. This includes providing funding for State-level advisory panels to improve state policies and procedures for assisting families with barriers to work.

Additionally, under the Chance to Succeed Act, States would create personal responsibility plans, a proposal endorsed by the Senate Finance Committee in the 107th Congress, that outline an employment goal for moving an individual into stable employment, the obligations of the individual to work toward becoming and remaining employed in the private sector, the individual's long-term career goals and the specific work experience, education, or training needed to reach them, and the services the State will offer based on screening and assessment.

Finally, the Chance to Succeed Act would bar States from inappropriately sanctioning families with barriers to work. As many as one-half of parents who were sanctioned off of welfare for failure to comply with state welfare rules, were unable to comply because of their disability, health condition or illness. Under this legislation, states would be prohibited from imposing sanctions on individuals for whom the appropriate screening, assessment, or services are unavailable.

Some States, including New Jersey, have already taken many of these steps, however, they have done so at their own expense. Last November, New Jersey granted an extension of benefits to 900 TANF recipients whose benefits were about to expire. Most of these families are too sick or disabled to work. Rather than forcing them off assistance, the state has recognized that these recipients need help. The Chance to Succeed Act will help states like New Jersey to identify these recipients and provide them supportive services to give them the tools they need to live independently. Ultimately, this will help states move this hard-to-serve group one step closer to self-sufficiency. Simply ignoring the needs of these families and sanctioning them off assistance will neither help them achieve independence, nor will it reduce their burden on the states or federal government.

Thank you, I ask unanimous consent that the text of my legislation be printed in the RECORD.

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

S. 316

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 ''Chance to Succeed Act of 2003''.

SEC. 2. INCLUSION OF EFFORTS TO ADDRESS BARRIERS TO EMPLOYMENT AS A WORK ACTIVITY UNDER TANF.

Section 407 of the Social Security Act (42 U.S.C. 607) is amended—

(1) in subparagraphs (A) and (B) of subsection (c), by striking ''or (12)'' each place it appears and inserting ''(12), or (13)'';

(2) in subsection (d)—

(A) in paragraph (11), by striking ''and'' at the end;

(B) in paragraph (12), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(13) subject to subsection (j), 6 months of satisfactory participation (as determined by the State) in services to address barriers that are designed to improve future employment opportunities, including substance abuse treatment, occupational therapy, and physical rehabilitation, mental health, and mental retardation and developmental disabilities services.''; and

(3) by adding at the end the following:

''(j) STATE OPTION TO EXTEND PERIOD FOR PARTICIPATION IN SERVICES TO ADDRESS BARRIERS.—

''(1) IN GENERAL.—With respect to an individual, a State may extend the 6-month period referred to in subsection (d)(13) for an additional period determined by the State so long as the State periodically reassesses the appropriateness of the activities referred to in such subsection for the individual.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or subsection (d)(13) shall be construed to limit the amount of time an individual may require, or a State may provide, services to address barriers that are designed to improve future employment opportunities.''.

SEC. 3. CREATION OF A SCREENING, ASSESSMENT, AND SERVICES PROCESS TO ADDRESS BARRIERS TO EMPLOYMENT.

(a) ASSESSMENTS.—Section 408(b) of the Social Security Act (42 U.S.C. 608(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) ASSESSMENT PROVIDED FOR EACH INDIVIDUAL WHO RECEIVES ASSISTANCE.—

''(A) IN GENERAL.—The State agency responsible for administering the State program funded under this part shall make an initial assessment of each adult individual who receives assistance under the program (and, in the case of a State program that requires an individual who is a caretaker for an individual who receives such assistance to engage in work, an initial assessment of the caretaker individual) to determine whether the individual has any barriers to employment or program compliance.

''(B) 2-PART PROCESS.—The assessment under subparagraph (A) shall consist of the following 2 parts:

''(i) INITIAL SCREENING.—

''(I) IN GENERAL.—An initial screening which shall evaluate an individual's employability, educational capacity, and other related circumstances, such as the child support status, housing needs, and transportation needs of the individual and the individual's family.

''(II) REQUIRED FACTORS TO BE ASSESSED.—A trained caseworker shall screen the individual for conditions such as physical or mental impairments, substance abuse, domestic or sexual violence, learning disabilities, limited English proficiency, limited literacy in a primary language, and need to care for a child with a disability or health condition which may interfere with work or other program requirements.

''(III) OPTIONAL ASSESSMENT OF CHILD CARE NEEDS.—At the option of the individual, the State shall, before assigning the individual to a work activity under the State program funded under this part, perform an assessment of the individual's child care needs, and guarantee safe, appropriate, affordable quality child care to any such individual who needs child care.

''(IV) OPTIONAL ASSESSMENT OF JOB PREPARATION.—At the option of the individual, the State shall, before assigning the individual to a work activity under the State program funded under this part, perform an individual assessment for the preparation that is needed for the individual to obtain and maintain a job at a monthly wage that is at least 200 percent of the poverty line applicable to the family of the individual.

''(ii) COMPREHENSIVE ASSESSMENT.—If an initial screening under clause (i) suggests the existence of potential barriers to work or program compliance, the individual may elect to participate in a comprehensive assessment conducted by a qualified professional to confirm the existence of the barriers, determine the extent of the barriers, and develop recommendations about appropriate services and activities for the individual.

''(C) FAMILY MEMBERS.—At the discretion of an individual who receives assistance under the State program funded under this part, a member of the individual's family also may be afforded an assessment in accordance with this paragraph.

''(D) NOT CONSIDERED A PROGRAM REQUIREMENT.—Participation by an individual or by a member of the individual's family in an assessment under this paragraph shall not be considered a program requirement for the individual or the individual's family.

''(E) INCLUSION OF CASEWORKERS.—Nothing in subparagraph (B)(ii) shall be construed as prohibiting a caseworker from being a qualified professional for purposes of that subparagraph if the caseworker satisfies the requirements for being considered a qualified professional.''; and

(2) by striking paragraph (4).

(b) REVIEW AND CONCILIATION PROCESS.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

''(12) REVIEW AND CONCILIATION PROCESS.—

''(A) IN GENERAL.—A State to which a grant is made under section 403 shall not impose a sanction against an individual or family under the State program funded under this part on the basis of noncompliance by an individual or family with a program requirement, unless the State satisfies the following requirements:

''(i) NOTICE.—The State has attempted, at least twice (using at least 2 different communication methods, 1 of which shall be in writing) to notify the individual or family, in the individual's or family's native language, of—

''(I) the impending imposition of the sanction;

''(II) the reason for the proposed sanction;

''(III) the amount of the sanction;

''(IV) the length of time during which the proposed sanction would be in effect; and

''(V) the steps required to come into compliance or to show good cause for noncompliance.

''(ii) REVIEW.—The State has afforded the individual or family an opportunity to meet with personnel outside the agency that administers the State program funded under this part who the State has contracted with to make a determination regarding why the individual or family did not comply with the program requirement, that is to be the basis on which the sanction is to be imposed, and that includes—

''(I) consideration of whether certain barriers to compliance exist that contributed to the noncompliance of the individual or family, such as a physical or mental impairment, including a mental health or substance abuse disorder or mental retardation, a learning disability, domestic or sexual violence, limited proficiency in English, limited literacy, or the need to care for a child with a disability or health condition;

''(II) consideration of whether the individual or family has good cause for failing to meet program requirements;

''(III) consideration of whether an additional assessment would assist in identifying reasons for noncompliance;

''(IV) consideration of whether support services or changes to the program requirements or activities to which the individual or family has been assigned are necessary in order for the individual or family to comply with program requirements; and

''(V) ensuring that the State's sanction policies have been applied properly.

''(B) SANCTION LIMITATIONS.—

''(i) BAN ON IMPOSITION OF SANCTION IF NEEDED SCREENING, ASSESSMENT, OR SERVICES WERE UNAVAILABLE.—A State may not impose a sanction against an individual or family under the State program funded under this part on the basis of noncompliance by an individual or family with a program requirement if the individual whose conduct is the basis of the sanction is in the process of being screened or assessed for a mental health problem, disability, substance abuse problem, or sexual or domestic violence situation but the screening or assessment has not been completed, or if services outlined in the service plan developed for the individual or family were not offered, available, and accessible to the individual or family at the time of the noncompliance.

''(ii) NO BAN ON SANCTION IF INDIVIDUAL OR FAMILY FAILS TO TAKE ADVANTAGE OF ASSESSMENT OR SERVICES AND DOES NOT COMPLY WITH WORK REQUIREMENTS.—Nothing in this paragraph shall be construed as prohibiting a State that has complied with the requirements of this paragraph and section 408(b)(1) from imposing a sanction for noncompliance with work requirements against an individual or family who opts to not take full advantage of the opportunity for assessment or the services and supports made available to ensure that the individual or family can comply with program requirements if such an individual or family is not complying with the State's work requirements.

''(C) SANCTION FOLLOW-UP REQUIREMENTS.—

''(i) IN GENERAL.—If a State imposes a sanction on an individual or family for failing to comply with program requirements, the State shall—

''(I) provide, at the time the sanction is imposed and periodically thereafter for at least 6 months, notice (in at least 2 different forms) to the individual or family of the reason for the sanction and the steps the individual or family must take to end the sanction;

''(II) reinstate the individual's or family's full benefits if the individual or family member who failed to meet the program requirements that led to the sanction complies with program requirements for a reasonable period of time and the individual or family is otherwise eligible; and

''(III) if the sanction is time-limited, notify the individual or family at least 10 days before the expiration of the sanction of the date when the individual or family will no longer be in sanction status and inform the individual or family how assistance will be reinstated.

''(ii) OUTREACH TO INDIVIDUALS AND FAMILIES SANCTIONED WHO HAVE NOT RESUMED RECEIVING CASH ASSISTANCE.—If, during the 5-year period that ended on the date of enactment of the Chance to Succeed Act of 2003, a State imposed a sanction against an individual or family that resulted in the individual or family losing all cash assistance under the State program funded under this part, and the individual or family did not resume receiving cash assistance at the end of the sanction period, the State shall make reasonable efforts to identify such individuals and families and notify them, using at least 2 methods of communication, 1 of which is written, of the assistance, services, and support they may be eligible to receive.

''(D) CONFIDENTIALITY.—The State, and any individuals or entities acting as agents of the State, shall not disclose any identifying information obtained through any process or procedure instituted pursuant to this paragraph unless required or permitted to do so by law.

''(E) DEVELOPMENT OF STANDARDS, PROCEDURES, TRAINING, AND SCREENING TOOLS.—States and local governments shall, in consultation with Federal, State, tribal, or local experts in the different barriers to employment, develop standards, procedures, training, and screening tools for use in carrying out this paragraph.''.

(c) PLAN REQUIREMENTS FOR INDIVIDUAL RESPONSIBILITY PLANS.—Section 408(b)(2)(A) of the Social Security Act (42 U.S.C. 608(b)(2)(A)) is amended to read as follows:

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—From the assessment described in paragraph (1), the State, in consultation with the individual who is the subject of the assessment, shall develop a personal responsibility plan, that—

''(I) sets forth an employment goal to move the individual into stable employment;

''(II) sets forth the obligations of the individual that will help the individual become and remain employed in the private sector;

''(III) describes the individual's long-term career goals and the specific work experience, education, or training needed to reach them; and

''(IV) identifies the services the State will offer the individual's family based upon the assessment and evaluation described in this section.

''(ii) MODIFICATION.—If the State is unable to provide needed services to the individual or the individual's family, the State shall modify the personal responsibility plan to be consistent with the needs of the individual, the family, and the capacity of the State.''.

(d) TECHNICAL ASSISTANCE.—The Secretary shall coordinate with Federal, State, and tribal experts and qualified professionals to determine, develop, and disseminate to States, and provide technical assistance with respect to, model practices, standards, and procedures for screening, assessment, addressing barriers, including multiple barriers, in a comprehensive manner, and moving individuals and families with barriers into employment, as well as model training materials for caseworkers.

(e) STATE PLAN REQUIREMENT.—Section 402(a)(1)(A) of the Social Security Act (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

''(vii) Identify and serve individuals and families with barriers to employment as described in section 408(b)(1).''.

(f) COORDINATING EXEMPTIONS FROM WORK REQUIREMENTS.—Section 408(a)(7)(C) of the Social Security Act (42 U.S.C. 608(a)(7)(C)) is amended by adding at the end the following:

''(iv) FAMILIES EXEMPTED FROM WORK REQUIREMENTS BY REASON OF BARRIER TO WORK BY FAMILY MEMBER.—The State shall exempt a family from the application of subparagraph (A) of this paragraph if the State permits a member of the family (or, in the case of a State that requires a caretaker for an individual who receives assistance to engage in work, a caretaker) to engage in activities to address barriers, pursuant to section 407(d)(13), so long as the State determines that the individual is satisfactorily participating in such activities.''.

(g) ADVISORY PANEL TO IMPROVE STATE POLICIES AND PROCEDURES FOR ASSISTING INDIVIDUALS AND FAMILIES WITH BARRIERS TO WORK.—

(1) MEMBERSHIP; CHAIR.—

(A) MEMBERSHIP.—Each State that receives a State family assistance grant under section 403(a)(1) of the Social Security Act (42 U.S.C. 603(a)(1)) shall establish an advisory panel consisting of representatives of the following:

(i) The State agency responsible for administering the temporary assistance to needy

families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (in this subsection referred to as the ''TANF program'').

(ii) Professionals from other State agencies with expertise in barriers that interfere with an individual's or family's ability to work, such as physical or mental impairments, substance abuse, domestic or sexual violence, learning disabilities, limited English proficiency, limited literacy in a primary language, and need to care for a child with a disability or health condition.

(iii) Organizations representing individuals and families with such barriers.

(iv) Professionals with expertise in designing and implementing policies and programs to successfully serve individuals and families with such barriers.

(v) Individuals and families with such barriers who are recipients of cash assistance or support services under the TANF program.

(B) CHAIR.—The chief executive officer of the State shall appoint an individual who is not a State employee to serve as chair of the advisory panel.

(2) DUTIES.—

(A) IN GENERAL.—The advisory panel shall review the efficacy of each program described in subparagraph (B) to determine—

(i) the amount of funds spent on services under the program;

(ii) the referral process for participation in the program, including whether individuals and families received referrals and services;

(iii) the effect services provided under the program had on an individual's and family's economic status; and

(iv) ways in which the State can improve the effectiveness of its policies and procedures to serve individuals and families with barriers to work or program compliance.

(B) PROGRAMS DESCRIBED.—For purposes of subparagraph (A), a program described in this subparagraph, is a program that—

(i) is funded under the TANF program;

(ii) receives funding from amounts made available under the State family assistance grant made under section 403(a)(1) of the Social Security Act (42 U.S.C. 603(a)(1)); or

(iii) is funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i) of such Act (42 U.S.C. 609(a)(7)(B)(i))).

(C) DEVELOPMENT OF MECHANISM FOR REVIEW AND REPORTS BY LOCAL UNITS OF GOVERNMENT.—In the case of a State in which significant policy or spending decisions are made in the State with respect to a program described in subparagraph (B) at the county or other local unit of government, then the advisory panel shall develop a mechanism that requires each county or other local unit of government to—

(i) review its policies and procedures with respect to that program and file a written report with the advisory panel regarding how the policies and procedures for the program are designed to assist individuals and families with barriers to work; and

(ii) respond to any other requests for information from the advisory panel regarding the TANF program.

(D) ADDITIONAL AUTHORITY.—In order to carry out the duties described in this paragraph, the advisory panel may hold such meetings (in addition to the regular meetings required under paragraph (3)(C)) and such public hearings, hire such staff, enter into the contract required under paragraph (4)(B), and travel to such locations of programs described in subparagraph (B), as the panel determines to be appropriate.

(3) DURATION; MEETINGS.—

(A) DURATION.—An advisory panel established in accordance with this subsection shall remain in effect for at least 3 years from the date of the initial meeting of the panel.

(B) DEADLINE FOR INITIAL MEETING.—Not later than the end of the first Federal fiscal year quarter that begins on or after the date of enactment of this Act, the advisory panel shall meet for its initial meeting.

(C) REGULAR MEETINGS.—The advisory panel shall meet on a regular basis.

(4) REPORTS.—

(A) IN GENERAL.—Each advisory panel established in accordance with this subsection shall file the following reports with the Secretary of Health and Human Services:

(i) Not later than 12 months after the initial meeting of the advisory panel, an interim report identifying areas where improvement is needed with respect to State policies and procedures to serve individuals with barriers to work and the steps the State is taking or plans to take to make those improvements.

(ii) Not later than 24 months after such initial meeting, a progress report on how the improvements identified in the report required under clause (i) are being made, whether additional improvements are needed, including plans to make those improvements, and that includes the report of the independent evaluation entity required under subparagraph (B).

(iii) Not later than 36 months after such initial meeting, a final report that describes how the programs described in subparagraph (B) have been improved to assist individuals and families with barriers to work and identifies ongoing work that will be needed to maintain the improvements made.

(B) REQUIREMENTS FOR PROGRESS REPORT.—In preparation for the progress report required under subparagraph (A)(ii), the advisory panel shall hire an independent evaluation entity to assess the State's progress in meeting the goals set forth by the advisory panel. In States described in paragraph (2)(C), the independent evaluation entity shall also assess the progress being made at the county level or appropriate other unit of local government.

(C) REPORTS TO CONGRESS.—The Secretary of Health and Human Services shall compile the reports submitted under subparagraph (A) and shall submit such compilations to Congress as part of any annual report to Congress on the TANF program.

(5) PUBLIC ACCESS.—

(A) IN GENERAL.—All materials collected by or provided to the advisory panel and all reports submitted by the advisory panel to the State or the Secretary of Health and Human Services shall be publicly available.

(B) OPPORTUNITY FOR PUBLIC COMMENT.—The advisory panel shall create opportunities to secure public comments on a draft of each report to be submitted to the State or the Secretary of Health and Human Services and shall submit a summary of such comments with the final draft of the report.

(6) FUNDING.—Out of funds made available to carry out this subsection, the Secretary of Health and Human Services shall pay each State that establishes an advisory panel in accordance with this subsection, $1,500,000, for the period of fiscal years 2004 through 2006.

(7) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as authorizing an advisory review panel established under this paragraph to resolve complaints filed by individuals or entities related to possible violations of laws protecting civil rights.

(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Health and Human Services to carry out this subsection, such sums as are necessary for each of fiscal years 2004 through 2007.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator CORZINE in introducing the Chance to Succeed Act, which will benefit the most vulnerable families across the Nation. I'm concerned that the Administration's proposal on welfare reform fails to give States the flexibility needed to assist families who face serious barriers to employment. The Chance to Succeed Act provides this essential flexibility.

Many of the individuals still remaining on welfare face significant and real barriers to finding and keeping jobs. These barriers include physical or mental disabilities, substance abuse, domestic or sexual violence, learning disabilities, problems with literacy or English proficiency, or the need to care for a sick or disabled child. These recipients are less likely to find jobs or earn adequate wages, and they are more likely to lose public assistance due to sanctions for noncompliance.

It makes sense to assist these families on the road to self-sufficiency by enabling states to do what is necessary to provide them with adequate work supports and needed services. This approach works, I've seen it in Massachusetts, which has been highly successful in serving its neediest families. In fact, even before the 1996 welfare reform, the state had developed a welfare program in which all recipients are screened for barriers to employment. We've successfully helped families without major barriers to obtain employment, and we've reduced our caseload by over 64 percent in five years. We've also been able, consistently and effectively, to serve families facing barriers and provide educational, rehabilitative, and other services appropriate for their situations. We have a socially and fiscally responsible welfare policy.

The Chance to Succeed Act will encourage all states to take such steps. It will facilitate the development of screening, assessment, and service delivery procedures that enable states to identify these individuals and provide appropriate support and services. It will provide funding and technical assistance for state advisory panels, model practices, and more effective standards and procedures to help individuals find employment.

This bill also helps the many persons who are unable to comply with current work requirements because of previously unidentified barriers to employment. It will enable each family to develop its own plan that includes career goals and private sector employment. It provides flexibility to states to design plans that meet families' unique needs. Activities essential to reducing and eliminating barriers can be counted as work. It will enable states to establish conciliation and follow-up procedures to remove barriers and improve compliance, so that fewer families are needlessly penalized and left vulnerable.

Individuals with barriers to employment are an important part of genuine welfare reform, and it is long past time for Congress to include them. The Chance to Succeed Act is a first step in

helping the many families who face barriers to become more self-sufficient.

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

S. 317. A bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs for work and family, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, I rise today to introduce legislation that, if enacted, could have a monumental impact on the lives of thousands of working men, women and families in America. Today, along with Senators ENZI, and SESSIONS, I am pleased to reintroduce the Family Time and Workplace Flexibility Act. The primary purpose of this legislation is to give families and employers greater flexibility in meeting and balancing the demands of work and family.

The demand for family time is evident. Let me give you some of the latest statistics. Seventy percent of employees don't think there is a healthy balance between work and personal life. Seventy percent of employees today say that family is their most important priority. This compares to 54 percent in 2000. Forty six percent of employees either feel overworked, overwhelmed by the quantity of their work, or lack the time to step back and reflect on their work. Sixty one percent of adults say they would give up some of their pay for more time with their family. Employees say that finding time for family is a more pressing concern than layoffs, 32 percent vs 22 percent. This compares to 25 percent in 1999.

In light of the cry of America's workers for more family time, and in honor of today's 10-year anniversary of the Family Medical Leave Act, I am introducing the Family Time and Workplace Flexibility Act, which will build upon the spirit of the FMLA, by updating federal law to allow a more flexible workplace. This legislation is not a total solution: there are many other provisions under the 64-year-old Fair Labor Standards Act that need our attention. But the legislation I am introducing today is an important part of the solution. It gives working families a choice.

The Family Time and Workplace Flexibility Act in a nutshell consists of three main provisions. The first allows employees the option of taking time off in lieu of overtime pay. The second gives employees the option of ''flexing'' their schedules over a two week period. In other words, employees would have 10 ''flexible'' hours that they could work in one week in order to take 10 hours off in the next week. The third provision gives employees the option of a ''flexible credit hour program,'' under which the employer and employee can agree to allow the employee to work excess hours in his schedule in order to accrue hours to be taken off at a later time. The flexible credit hour option is for employees who do not get the opportunity to work overtime, but still want a way to build up hours to take off later.

Flexible work arrangements have been available in the Federal Government since 1978. For over three decades, federal workers have had this special privilege. The federal program was so successful in fact, that in 1994 President Clinton issued an Executive Order extending it to parts of the Federal government that had not yet had the benefits of the program. The President stated that: ''Broad use of flexible arrangements to enable Federal employees to better balance their work and family responsibilities can increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.'' I couldn't agree more.

While Federal employees enjoy the benefits of flexible workplace arrangements, members of the private sector do not have such options. The Family Time and Workplace Flexibility Act corrects this and extends this option to all businesses covered by the Fair Labor Standards Act.

So, who are these workers who are currently covered by the FLSA but do not have the ability to exercise workplace flexibility? They are some of the hardest working Americans. Sixty percent of these workers have only a high school education. Eighty percent of them make less than $28,000. A great percentage of them are single mothers with children. They are working hard to meet their family's economic needs as well as their emotional needs. And while government can't mandate love and nurture, it can get out of the way and eliminate barriers to opportunities for love and nurture. That is what the Family Time and Workplace Flexibility Act does.

In the subsequent weeks and months we will undoubtedly hear from some that what working families really need is more money. They need their overtime pay. That may well be true for some families, and this bill does not affect them in any way. But for other families, for families who want to choose to take time off with pay to attend a child's school play or PTA meeting, the issue is time, not money. The point is this the family should have the right to choose. Washington should not decide for them which priority is important for their family.

I am one who believes in the working men and women of America and in their ability to know what is best for their families. It is time for Congress to give families what they want, and not what Congress thinks they need. It's time to give working families what Federal employees have already—workplace flexibility.

I ask unanimous consent that the text of the legislation, a bill summary, and an article from the Washington Post be printed in the RECORD.

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

S. 317

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Family Time and Workplace Flexibility Act''.

SEC. 2. WORKPLACE FLEXIBILITY OPTIONS.

(a) COMPENSATORY TIME OFF.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

''(r)(1)(A) Except as provided in subparagraph (B), no employee may be required under this subsection to receive compensatory time off in lieu of monetary overtime compensation. The acceptance of compensatory time off in lieu of monetary overtime compensation may not be a condition of employment or of working overtime.

''(B) In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required under this subsection to receive compensatory time off in lieu of monetary overtime compensation in accordance with the agreement.

''(2)(A) An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which monetary overtime compensation is required by this section.

''(B) In this subsection:

''(i) The term 'employee' means an individual—

''(I) who is an employee (as defined in section 3);

''(II) who is not an employee of a public agency; and

''(III) to whom subsection (a) applies.

''(ii) The term 'employer' does not include a public agency.

''(3) An employer may provide compensatory time off to employees under paragraph (2)(A) only pursuant to the following:

''(A) The compensatory time off may be provided only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) The compensatory time off may only be provided to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to receive compensatory time off in lieu of monetary overtime compensation.

''(C) No employee may receive, or agree to receive, the compensatory time off unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(D) An employee shall be eligible to accrue compensatory time off if such employee has not accrued compensatory time off in excess of the limit applicable to the employee prescribed by paragraph (4).

''(4)(A) An employee may accrue not more than 160 hours of compensatory time off.

''(B) Not later than January 31 of each calendar year, the employer of the employee shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of the preceding calendar year at the rate prescribed by paragraph (8). An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case the compensation shall be provided not later than 31 days after the end of the 12-month period.

''(C) The employer may provide monetary compensation for an employee's unused compensatory time off in excess of 80 hours at any time after providing the employee with at least 30 days' written notice. The compensation shall be provided at the rate prescribed by paragraph (8).

''(5)(A) An employer that has adopted a policy offering compensatory time off to employees may discontinue the policy for employees described in paragraph (3)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement described in paragraph (3)(A)(ii).

''(B) An employee may withdraw an agreement described in paragraph (3)(A)(ii) at any time, by submitting a written notice of withdrawal to the employer of the employee. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time off accrued that has not been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (8).

''(6)(A)(i) An employer that provides compensatory time off under paragraph (2) to an employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

''(I) interfering with the rights of the employee under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours;

''(II) interfering with the rights of the employee to use accrued compensatory time off in accordance with paragraph (9); or

''(III) requiring the employee to use the compensatory time off.

''(ii) In clause (i), the term 'intimidate, threaten, or coerce' has the meaning given the term in section 13A(d)(2).

''(B) An agreement that is entered into by an employee and employer under paragraph (3)(A)(ii) shall permit the employee to elect, for an applicable workweek—

''(i) the payment of monetary overtime compensation for the workweek; or

''(ii) the accrual of compensatory time off in lieu of the payment of monetary overtime compensation for the workweek.''.

(b) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended by adding at the end the following:

''(f)(1) In addition to any amount that an employer is liable under subsection (b) for a violation of a provision of section 7, an employer that violates section 7(r)(6)(A) shall be liable to the employee affected in an amount equal to—

''(A) the product of—

''(i) the rate of compensation (determined in accordance with section 7(r)(8)(A)); and

''(ii)(I) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee; minus

''(II) the number of such hours used by the employee; and

''(B) as liquidated damages, the product of—

''(i) such rate of compensation; and

''(ii) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17, including a criminal penalty under subsection (a) and a civil penalty under subsection (e).''.

(c) CALCULATIONS AND SPECIAL RULES.—Section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)), as added by subsection (a), is further amended by adding at the end the following:

''(7) An employee who has accrued compensatory time off authorized to be provided under paragraph (2) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time off in accordance with paragraph (8).

''(8)(A) If compensation is to be paid to an employee for accrued compensatory time off, the compensation shall be paid at a rate of compensation not less than—

''(i) the regular rate received by such employee when the compensatory time off was earned; or

''(ii) the final regular rate received by such employee;

whichever is higher.

''(B) Any payment owed to an employee under this subsection for unused compensatory time off shall be considered unpaid monetary overtime compensation.

''(9) An employee—

''(A) who has accrued compensatory time off authorized to be provided under paragraph (2); and

''(B) who has requested the use of the accrued compensatory time off;

shall be permitted by the employer of the employee to use the accrued compensatory time off within a reasonable period after making the request if the use of the accrued compensatory time off does not unduly disrupt the operations of the employer.

''(10) The terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7).''.

(d) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

SEC. 3. BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.

(a) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

''SEC. 13A. BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.

''(a) VOLUNTARY PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required to participate in such a program in accordance with the agreement.

''(b) BIWEEKLY WORK PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

''(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

''(B) in which more than 40 hours of the work requirement may occur in a week of the period, except that no more than 10 hours may be shifted between the 2 weeks involved.

''(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

''(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

''(4) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by the employer, shall be overtime hours.

''(5) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(6) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement described in paragraph (2)(A)(ii) at the end of any 2-week period described in paragraph (1)(A), by submitting a written notice of withdrawal to the employer of the employee.

''(c) FLEXIBLE CREDIT HOUR PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish flexible credit hour programs, under which, at the election of an employee, the employer and the employee jointly designate hours for the employee to work that are in excess of the basic work requirement of the employee so that the employee can accrue flexible credit hours to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

''(2) CONDITIONS.—An employer may carry out a flexible credit hour program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

''(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(D) HOURS.—An agreement that is entered into under subparagraph (A) shall provide that, at the election of an employee, the employer and the employee will jointly designate, for an applicable workweek, flexible credit hours for the employee to work.

''(E) LIMIT.—An employee shall be eligible to accrue flexible credit hours if the employee has not accrued flexible credit hours in excess of the limit applicable to the employee prescribed by paragraph (3).

''(3) HOUR LIMIT.—

''(A) MAXIMUM HOURS.—An employee who is participating in such a flexible credit hour program may accrue not more than 50 flexible credit hours.

''(B) COMPENSATION DATE.—Not later than January 31 of each calendar year, the employer of an employee who is participating in such a flexible credit hour program shall provide monetary compensation for any flexible credit hours accrued during the preceding calendar year that were not used prior to December 31 of the preceding calendar year at a rate not less than the regular rate at which the employee is employed on the date the employee receives the compensation. An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case the compensation shall be provided not later than 31 days after the end of the 12-month period.

''(4) COMPENSATION FOR FLEXIBLE CREDIT HOURS.—Notwithstanding section 7, in the case of an employee participating in such a flexible credit hour program, the employee shall be compensated for each flexible credit hour at a rate not less than the regular rate at which the employee is employed.

''(5) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of 40 hours in a week that are requested in advance by the employer, other than flexible credit hours, shall be overtime hours.

''(6) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(7) USE OF TIME.—An employee—

''(A) who has accrued flexible credit hours; and

''(B) who has requested the use of the accrued flexible credit hours,

shall be permitted by the employer of the employee to use the accrued flexible credit hours within a reasonable period after making the request if the use of the accrued flexible credit hours does not unduly disrupt the operations of the employer.

''(8) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a flexible credit hour program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement described in paragraph (2)(A)(ii) at any time, by submitting a written notice of withdrawal to the employer of the employee. An employee may also request in writing that monetary compensation be provided, at any time, for all flexible credit hours accrued that have not been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due at a rate not less than the regular rate at which the employee is employed on the date the employee receives the compensation.

''(d) PROHIBITION OF COERCION.—

''(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

''(A) interfering with the rights of the employee under this section to elect or not to elect to work a biweekly work schedule;

''(B) interfering with the rights of the employee under this section to elect or not to elect to participate in a flexible credit hour program, or to elect or not to elect to work flexible credit hours (including working flexible credit hours in lieu of overtime hours);

''(C) interfering with the rights of the employee under this section to use accrued flexible credit hours in accordance with subsection (c)(7); or

''(D) requiring the employee to use the flexible credit hours.

''(2) DEFINITION.—In paragraph (1), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

''(e) DEFINITIONS.—In this section:

''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

''(4) ELECTION.—The term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee.

''(5) EMPLOYEE.—The term 'employee' means an individual—

''(A) who is an employee (as defined in section 3);

''(B) who is not an employee of a public agency; and

''(C) to whom section 7(a) applies.

''(6) EMPLOYER.—The term 'employer' does not include a public agency.

''(7) FLEXIBLE CREDIT HOURS.—The term 'flexible credit hours' means any hours, within a flexible credit hour program established under subsection (c), that are in excess of the basic work requirement of an employee and that, at the election of the employee, the employer and the employee jointly designate for the employee to work so as to reduce the hours worked in a week on a day subsequent to the day on which the flexible credit hours are worked.

''(8) OVERTIME HOURS.—The term 'overtime hours'—

''(A) when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer; or

''(B) when used with respect to flexible credit hour programs under subsection (c), means all hours worked in excess of 40 hours in a week that are requested in advance by an employer, but does not include flexible credit hours.

''(9) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

(b) REMEDIES.—

(1) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)'';

(B) by adding ''or'' after the semicolon; and

(C) by adding at the end the following:

''(B) to violate any of the provisions of section 13A;''.

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216), as amended in section 2(b), is further amended—

(A) in subsection (c)—

(i) in the first sentence—

(I) by inserting after ''7 of this Act'' the following: '', or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 13A''; and

(II) by striking ''wages or unpaid overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and'';

(ii) in the second sentence, by striking ''wages or overtime compensation and'' and

inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and''; and

(iii) in the third sentence—

(I) by inserting after ''first sentence of such subsection'' the following: '', or the second sentence of such subsection in the event of a violation of section 13A,''; and

(II) by striking ''wages or unpaid overtime compensation under sections 6 and 7 or'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or'';

(B) in subsection (e)—

(i) in the second sentence, by striking ''section 6 or 7'' and inserting ''section 6, 7, or 13A''; and

(ii) in the fourth sentence, in paragraph (3), by striking ''15(a)(4) or'' and inserting ''15(a)(4), a violation of section 15(a)(3)(B), or''; and

(C) by adding at the end the following:

''(g)(1) In addition to any amount that an employer is liable under the second sentence of subsection (b) for a violation of a provision of section 13A, an employer that violates section 13A(d) shall be liable to the employee affected for an additional sum equal to that amount.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17.''.

(c) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

SEC. 4. PROTECTIONS FOR CLAIMS RELATING TO COMPENSATORY TIME OFF IN BANKRUPTCY PROCEEDINGS.

Section 507(a)(3) of title 11, United States Code, is amended—

(1) by striking ''for—'' and inserting the following: ''on the condition that all accrued compensatory time off (as defined in section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207)) shall be deemed to have been earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—''; and

(2) in subparagraph (A), by inserting before the semicolon the following: ''or the value of unused, accrued compensatory time off (as defined in section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207))''.

SEC. 5. CONGRESSIONAL COVERAGE.

Section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and section 12(c)'' and inserting ''section 12(c), and section 13A''; and

(B) by striking paragraph (3);

(2) in subsection (b)—

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

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the remedy''; and

(B) by adding at the end the following:

''(2) COMPENSATORY TIME.—The remedy for a violation of subsection (a) relating to the requirements of section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)) shall be such remedy as would be appropriate if awarded under subsection (b) or (f) of section 16 of such Act (29 U.S.C. 216).

''(3) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOURS PROGRAMS.—The remedy for a violation of subsection (a) relating to the requirements of section 13A of the Fair Labor Standards Act of 1938 shall be such remedy as would be appropriate if awarded under sections 16 and 17 of such Act (29 U.S.C. 216, 217) for such a violation.''; and

(3) in subsection (c), by striking paragraph (4).

SEC. 6. TERMINATION.

The authority provided by this Act and the amendments made by this Act terminates 5 years after the date of enactment of this Act.

LEGISLATIVE SUMMARY

THE FAMILY TIME AND WORKPLACE FLEXIBILITY ACT

Section 2, Comp Time

Gives employers and employees (who have been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period) the option of comp time in lieu of monetary overtime compensation, at the rate of 1 and ½ hours of comp time for each hour of overtime worked.

Where a collective bargaining agreement is in place, an employer would have to work within that context in shaping any comp time program.

Where there is no collective bargaining agreement in place, the employer and the individual employee would be allowed to enter into a ''written agreement'' with respect to comp time. Such an agreement must be completely voluntary and must be arrived at before the performance of the work.

The employer is prohibited from directly or indirectly intimidating, threatening, coercing or attempting to intimidate, threaten or coerce any employee in agreeing to the comp time option nor may acceptance of comp time be a condition of employment or of working overtime.

Employees may not accrue more than 160 hours of comp time. If unused, such hours must be cashed out at the end of the preceding calendar year or not later than 31 days after the end of an alternative 12-month period designated by the employer. An employer may, upon 30 days written notice to the employee, cash-out all hours banked in excess of 80. Employees who terminate their employment either voluntarily or involuntarily must be paid for any unused comp time.

An employee may withdraw an agreement at any time by submitting a written notice of withdrawal to the employer and an employer must, within 30 days after receiving the written request, provide the employee the monetary compensation due.

An employer may discontinue offering comp time after providing 30 days' notice.

Comp time may be used upon request by a worker within a reasonable period after making the request if it does not unduly disrupt the operations of the employer.

Section 3, Bi-Weekly Work and Flexible Credit Hour Programs

Gives employers and employees the option of a 2-week 80 hour work period during which, without incurring an overtime penalty, up to 10 hours could be ''flexed'' between the two week period. Employees could, if agreed upon by their employers, choose to work 2 weeks of 40 hours each, 50 hours in one week and 30 in another, etc. Employers would not be required to pay overtime rates (time-and-a-half) until 80 hours had been worked in 2 calendar weeks. For hours worked in excess of 80 in a 2 week period, a worker would have to be compensated either in cash or in paid comp time (if the employer has agreed to a comp time option)—each at not less than a time-and-a-half-basis.

Gives employers and employees the option of a ''flexible credit hour program,'' under which the employer and employee can agree to allow the employee to work excess hours in his schedule in order to accrue hours to be taken off at a later time. The employee would receive one hour of time off for every excess hour worked.

The flexible credit hour option is for employees who do not get the opportunity to work overtime, but still want a way to build up hours to take off later.

Employees may accrue up to 50 flexible credit hours.

Like comp time, these programs are completely voluntary and may not affect collective bargaining agreements that are in force.

Discontinuance rules for these programs are similar to rules for comp time.

Section 4, Protections in Cases of Bankruptcy

Amends the Federal bankruptcy code to grant third priority (allowed unsecured claims for wages, salaries, or commissions) in bankruptcy proceedings to claims relating to compensatory time off.

Section 5, Congressional Coverage

Congressional employees would have access to comp time, biweekly work programs, and flexible credit hours.

Section 6, Termination

The provisions sunset after 5 years.

[From the Washington Post, Feb. 4, 2003]

THE REGULATORS

(By Cindy Skrzycki)

BUSINESSES SORE ABOUT MEDICAL LEAVE

It was the Labor Department's 1996 ruling that counted the common cold, flu, earaches, headaches and other routine ailments as ''serious health conditions'' that put many employers in a swivet over benefits offered under the Family and Medical Leave Act.

The business community, fearing employees would be absent from work for minor ailments, geared up almost immediately to press Congress and the Labor Department for ''technical corrections'' to the rules.

The law, passed a decade ago, provides workers at companies with more than 50 employees up to 12 weeks or unpaid leave and job protection for the birth or adoption of a child, to care for an immediate family member, or to tend to a serious health condition. Businesses felt so strongly about the need to ''fix'' some of the rules that they created the FMLA Technical Corrections Coalition in 1997, and about 300 companies and trade associations joined. They testified, lobbied and complained about problems with the rules, especially the guidance on what constitutes a serious health condition. The Clinton administration, which viewed the law as a signature piece of legislation, was not disposed to change the rules. In surveys done for the Labor Department, Clinton regulators insisted that companies were not finding it onerous to comply. A Labor survey in 2000, for example, said millions of workers have taken the leave, using it ''infrequently and for relatively short periods of time.''

The Bush administration has been more receptive to industry complaints and is talking to business groups, AARP, unions and women's advocacy groups about what works and doesn't work with the regulations.

''The employer community has come in with very specific, very targeted issues in very specific areas of the regulations,'' said Victoria A. Lipnic, assistant secretary for the Employment Standards Administration. ''These are listening sessions on our part. The biggest thing we hear is the chronic use of unforeseen, intermittent leave.''

Lipnic said the department hopes to reorganize the rules and eliminate some of the

complexity to make them more efficient for employers and employees alike. She added that the department has to change some of the notification requirements that employers have to abide by because a recent Supreme Court decision found employers did not have to offer 12 weeks of family leave on top of other, more generous leave policies.

''No one debates the 12-week leave or the family-leave part of the legislation,'' said Randel Johnson, vice president of labor, immigration and employee benefits at the U.S. Chamber of Commerce. ''It's the medical leave part that causes the problem.''

Johnson, who was the staff aide who wrote the minority views when the original legislation passed the House, predicted at the time that administration would be unworkable and lead to extensive litigation. For some companies, those problems have come to pass and so has the litigation. There have been some 1,300 federal cases dealing with various aspects of the law, according to the Labor Department.

Though Congress made it clear that the leave was to be applied to ''serious medical conditions,'' such as cancer, surgeries and pregnancy-related issues, the rules were interpreted otherwise.

The 1996 opinion letter that triggered business outrage said an employee is eligible for leave if he is out for more than three days and is receiving treatment, such as antibiotics for the flu. That interpretation followed an opinion from the department the year before that said exactly the opposite.

''Whenever we have seminar or a breakout session [on the law] at a conference, it's packed to capacity,'' said Deron Zeppelin, director of governmental affairs for the Society for Human Resource Management, a group of business benefits managers. ''When you're dealing with the realities of the workplace, the law becomes more difficult. No one thought when it was passed that people would get [medical] certification to take off time whenever they want.''

One large corporation, which asked not to be named, said 90 percent of the leave its workers take falls into the ''serious medical condition'' category, not the care of family members. Company officials said the leave has been taken for pinkeye, poison ivy, stress and tooth extraction. ''People use this as a way to get additional sick leave without any repercussions,'' said a company official.

Business lobbyists want to tighten the definition of what constitutes a serious health condition. The also want to restrict employees to taking the leave in half-day chunks—now, it can be taken in the smallest increments their payroll systems can track, and that can be minutes. They also want employees to be responsible for requesting leave under the act, instead of requiring that companies tell them about it.

Labor unions and women's groups who fought for passage of the law have been watching warily, especially since the Bush administration recently threw out a Clinton-era rule that allowed states to pay for family leave through their unemployment funds. They would like to see the law expanded to cover other absences, such as teacher conferences or to allow employees to take a sick parent to a doctor's appointment. They also would like the leave to be paid, which would require new legislation, and cover more employees.

Christine Owens, director of public policy for the AFL–CIO, said business is overstating the seriousness of the problems and they probably could be fixed with ''modest tinkering.'' Judith L. Lichtman, president of the National Partnership for Women & Families, said the problems employers are complaining about are of ''questionable merit.''

''If the Bush administration wants to think of itself as family-friendly, it should put its policies where its rhetoric is—expand on existing FMLA rights,'' Lichtman said. ''It's an incredibly popular program that has made a difference in the lives of working people.''

By Mr. KERRY (for himself, Mr. BOND, MS. LANDRIEU, Mr. EDWARDS, Mr. JOHNSON, Mr. BINGAMAN, Mr. LEVIN, Mr. BAUCUS, Mr. DASCHLE, Mr. HOLLINGS, Mr. LIEBERMAN, Mr. WARNER, Mr. CRAPO, Mr. HARKIN, and Mr REID):

S. 318. A bill to provide emergency assistance to nonfarm-related small business concerns that have suffered substantial economic harm from drought; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, drought continues to be a serious problem for many States in this country, and I rise to re-introduce legislation to help small businesses that need disaster assistance but can't get it through the Small Business Administration's disaster loan program.

You see, the SBA doesn't treat all drought victims the same. The Agency only helps those small businesses whose income is tied to farming and agriculture. However, farmers and ranchers are not the only small businesses owners whose livelihoods are at risk when drought hits their communities. The impact can be just as devastating to the owners of rafting businesses, marinas, and bait and tackle shops. Sadly, these small businesses cannot get help through the SBA's disaster loan program because of something taxpayers hate about government, bureaucracy.

The SBA denies these businesses access to disaster loans because its lawyers say drought is not a sudden event and therefore it is not a disaster by definition. However, contrary to the Agency's position that drought is not a disaster, as of July 16, 2002, the day this legislation was introduced last year, the SBA had in effect drought disaster declarations in 36 States. And adding insult to injury, in those States where the Agency declared drought disasters, it limited assistance to only farm-related small businesses.

My friends, the SBA has the authority to help all small businesses hurt by drought in declared disaster areas, but the Agency won't do it. For years the Agency has been applying the law unfairly, helping some and not others, and it is out of compliance with the law. The Small Business Drought Relief Act of 2003 would force SBA to comply with existing law, restoring fairness to an unfair system, and get help to small business drought victims that need it.

This bill deserves quick consideration. Time is of the essence for drought victims. This legislation has been through a thorough review, and there is no reason to duplicate our efforts. The Committee considered virtually identical legislation last year and voted unanimously to pass it. In addition to approval by the committee of jurisdiction, OMB approved identical legislation last year. The bill I am introducing today includes those changes we worked out with the Administration, and I see no reason to delay passage.

Senator BOND has been a real champion on this issue, and I thank him. I look forward to having a similar partnership with Senator SNOWE. I thank all my colleagues who are cosponsors, Senators BOND, LANDRIEU, EDWARDS, JOHNSON, BINGAMAN, LEVIN, BAUCUS, DASCHLE, HOLLINGS, LIEBERMAN, WARNER, CRAPO, HARKIN, and REID.

I ask unanimous consent that the text of the bill, and letters of support from governors who advocated prompt passage of this legislation last year, be printed in the RECORD.

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

S. 318

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

SECTION 1. LOANS TO SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Drought Relief Act of 2003''.

(b) FINDINGS.—Congress finds that—

(1) as of July 2002, more than 36 States (including Massachusetts, South Carolina, and Louisiana) have suffered from continuing drought conditions;

(2) droughts have a negative effect on State and regional economies;

(3) many small businesses in the United States sell, distribute, market, or otherwise engage in commerce related to water and water sources, such as lakes, rivers, and streams;

(4) many small businesses in the United States suffer economic injury from drought conditions, leading to revenue losses, job layoffs, and bankruptcies;

(5) these small businesses need access to low-interest loans for business-related purposes, including paying their bills and making payroll until business returns to normal;

(6) absent a legislative change, the practice of the Small Business Administration of permitting only agriculture and agriculture-related businesses to be eligible for Federal disaster loan assistance as a result of drought conditions would likely continue;

(7) during the past several years small businesses that rely on the Great Lakes have suffered economic injury as a result of lower than average water levels, resulting from low precipitation and increased evaporation, and there are concerns that small businesses in other regions could suffer similar hardships beyond their control and that they should also be eligible for assistance; and

(8) it is necessary to amend the Small Business Act to clarify that nonfarm-related small businesses that have suffered economic injury from drought are eligible to receive financial assistance through Small Business Administration Economic Injury Disaster Loans.

(c) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting ''(1)'' after ''(k)''; and

(B) by adding at the end the following:

''(2) For purposes of section 7(b)(2), the term 'disaster' includes—

''(A) drought; and

''(B) below average water levels in the Great Lakes, or on any body of water in the

United States that supports commerce by small business concerns.''.

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting ''including drought, with respect to both farm-related and nonfarm-related small business concerns affected by drought,'' before ''if the Administration''; and

(B) in subparagraph (B), by striking ''the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)'' and inserting the following: ''section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph''.

(d) PROMPT RESPONSE TO DISASTER REQUESTS.—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking ''Upon receipt of such certification, the Administration may'' and inserting ''Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may''.

(e) LIMITATION ON LOANS.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during fiscal year 2003 to provide drought disaster loans to non-farm related small business concerns.

(f) RULEMAKING.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this Act and the amendments made by this Act.

SOUTHERN GOVERNORS' ASSOCIATION,
August 19, 2002.

Hon. JOHN KERRY,
U.S. Senate, Washington, DC.

DEAR SENATOR KERRY: We are deeply concerned that small businesses in states experiencing drought are being devastated by drought conditions that are expected to continue through the end of the summer. We urge you to support legislation that would allow small businesses to protect themselves against the detrimental effects of drought.

Much like other natural disasters, the effects of drought on local economies can be crippling. Farmers and farm-related businesses can turn in times of drought to the U.S. Department of Agriculture. However, non-farm small businesses have nowhere to go, not even the Small Business Administration (SBA), because their disaster loans are not made available for damage due to drought.

To remedy this omission, Sen. John Kerry (D–Mass.) introduced the Small Business Drought Relief Act (S. 2734) on July 16, 2002, to make SBA disaster loans available to those small businesses debilitated by prolonged drought conditions. This bill was passed by the Senate Small Business Committee just eight days later. Also, the companion legislation (H.R. 5197) was introduced by Rep. Jim DeMint (R–S.C.) on July 24, 2002. Both bills are gaining bipartisan support, and we hope you will cosponsor this important legislation and push for its rapid enactment in the 107th Congress.

As 11 southern states are presently experiencing moderate to exceptional drought conditions this summer, we cannot afford to wait to act. We urge you to cosponsor the Small Business Drought Relief Act and push for its consideration as soon as possible.

Sincerely,

Gov. Don Siegelman of Alabama; Gov. Mike Huckabee of Arkansas; Gov. Roy E. Barnes of Georgia; Gov. M.J. ''Mike'' Foster, Jr. of Louisiana; Gov. Ronnie Musgrove of Mississippi; Gov. Michael F. Easley of North Carolina; Gov. Jim Hodges of South Carolina; Gov. Rick Perry of Texas; Gov. Bob Wise of West Virginia; Gov. Paul E. Patton of Kentucky; Gov. Parris N. Glendening of Maryland; Gov. Bob Holden of Missouri; Gov. Frank Keating of Oklahoma; Gov. Don Sundquist of Tennessee; and Gov. Mark Warner of Virginia.

OFICE OF THE GOVERNOR,
July 23, 2002.

Hon. JOHN F. KERRY,
Chairman, Committee on Small Business, Washington, DC.

Hon. CHRISTOPHER BOND,
Ranking Member, Committee on Small Business, Washington, DC.

DEAR SENATORS KERRY AND BOND: Much of Nevada and the Nation have been experiencing extreme drought over the past several years. In Nevada we have seen the effects of this situation through catastrophic range and forest fires, insect infestations and loss of crops and livestock.

Prolonged drought causes a drastic reduction in stream and river flow levels. This can cause the level of lakes to drop so significantly that existing docks and boat ramps cannot provide access to boats. In the case of range and forest fires we have seen small innkeepers and hunting and fishing related businesses that have their entire season wiped out in a matter of a few hours.

Unfortunately for some small businesses, drought assistance is available only for agriculture related small businesses, such as feed and seed stores. For businesses that are based on tourism around lakes and rivers, there is currently no drought assistance available.

The Small Business Administration (SBA) is not currently authorized to help these businesses because a drought is not a sudden occurrence. Nonetheless, a drought is an ongoing natural disaster that causes great damage to these small businesses.

I would like to lend my support to S. 2734, The Small Business Drought Relief Act. This bill would amend the guidelines and authorize the SBA to offer assistance to small businesses affected by prolonged drought. With passage of this bill, Governors would be allowed to ask SBA for an administrative declarations of economic injury because of drought. The low interest loans SBA can offer these businesses would allow many of them to weather the drought and remain economically viable for future operation.

Sincerely,

KENNY C. GUINN,
Governor.

STATE OF NORTH CAROLINA, OFFICE OF THE GOVERNOR,
Raleigh, NC, July 18, 2002.

Hon. JOHN EDWARDS,
U.S. Senate, Washington, DC.

DEAR SENATOR EDWARDS: I am writing to thank you for your support for legislation introduced in the Senate to add drought as a condition for which small businesses may apply for Small Business Administration Economic Injury Disaster Loans.

The Small Business Drought Relief Act (S. 2734) will correct the current situation facing our small businesses in North Carolina. SBA disaster assistance is not available despite a historic drought that is impacting not just our agriculture sector, but causing real business and revenue losses, which threaten some firms with job layoffs or even bankruptcy.

These businesses need help, and access to low-interest SBA loans can offer a lifeline to allow paying bills and making payrolls until business returns to normal.

I urge you to push for rapid action on this important enhancement to SBA's ability to help our people through this time of trouble.

With kindest regards, I remain

Very truly yours,

MICHAEL F. EASLEY,
Governor.

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, July 9, 2002.

Hon. JOHN KERRY,
U.S. Senate, Washington, DC.

DEAR SENATOR KERRY: The State of South Carolina is in its fifth year of drought status, the worst in over fifty years. Some parts of the state are in extreme drought status and the rest if in severe drought status.

Ninety-nine percent of our streams are flowing at less than 10 percent of their average flow for this time of year. 60 percent of those same streams are running at lowest flow on record for this date. The levels of South Carolina's lakes have dropped anywhere from five feet to twenty feet. Some lakes have experienced a drop in water level so significant that tourist and recreational use has diminished.

State and national climatologists are not hopeful that we will receive any significant rainfall in the near future. To end our current drought, we would need an extended period of average to above average rainfall.

Droughts, particularly prolonged ones such as we are experiencing now, have extensive economic effects. For farmers who experience the economic effects of such a drought, assistance is available through the USDA. For small businesses, assistance is available only for agriculture related small businesses, i.e., feed and seed stores. For businesses that are based on tourism around Lakes and Rivers, there is currently no assistance available.

We have reports of lake and river tourism dependent businesses experiencing 17 percent to 80 percent declines in revenue. The average decline in revenue is probably near 50 percent across the board.

My staff has contacted Small Business Administration and they are not authorized to offer assistance to these businesses because a drought is not defined as a sudden occurrence. Nonetheless, a drought is an ongoing natural disaster that is causing great economic damage to these small business owners.

I am requesting that you assist us in this situation by proposing that the Small Business and Entrepreneurship Committee take action to at least temporarily amend the SBA authorizing language and allow them to offer assistance to small businesses affected by prolonged drought. This would allow Governors to ask SBA for an administrative declaration of economic injury because of drought. The low interest loans SBA can offer these businesses would allow many of them to weather the drought and remain in business for the long run.

My staff has also been in contact with Senator Hollings' legislative staff. I hope together, we can find an expedient solution to the plight of these small business owners. Short of finding a way to control the weather, this may be our only option to help their dire situation.

Sincerely,

JIM HODGES,
Governor.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. 319. A bill to amend chapter 89 of title 5, United States Code, to increase the Government contribution for Federal employee health insurance; to the Committee on Governmental Affairs.

Ms. MIKULSKI. Mr. President, I rise today to introduce the Federal Employees Health Benefits Improvement Act of 2003 along with my colleague from Maryland, Senator SARBANES. This bill would reduce the employee portion of premiums costs under the Federal Employee Health Benefits Plan.

Our Federal employees work hard for the American people and they deserve quality benefits.

Why is this legislation important?

Health insurance premiums for Federal employees and retirees rose an average of 11.2 percent this year. In contrast, Federal worker's wages are expected to rise by 4.1 percent in the Washington-Baltimore area once the fiscal year 2003 Omnibus Appropriations bill is approved. This follows a 13.3 percent increase last year, and an increase of 10.5 percent for 2001. As a result, premiums are nearly 50 percent greater than they were just 5 years ago.

The Federal program provides health insurance coverage to about 9 million government workers, retirees and family members. More than 800,000 of these workers live in the DC metro area.

Health insurance costs are skyrocketing, and Federal employees are paying a greater share of their take home pay for health care each year. Currently, Federal employees pay anywhere between 28 percent to 30 percent of premiums. In the private sector, other large employers pay at least 80 percent of premiums and employees pay 20 percent, according to recent data published by the Bureau of Labor Statistics and the Kaiser Family Foundation.

How would this bill help solve this problem?

This bill would change the financing formula for Federal Employees Health Benefits Program, FEHBP. Under this approach, the federal agencies would pay 80 percent of the weighted average for premiums. This would help reduce the out-of-pocket health care costs for federal employees and improve the affordability of FEHBP immensely.

What would this mean to Federal employees?

My bill would help improve the affordability of health care insurance for all 9 million. Currently, about 250,000 federal employees do not have health insurance. Many of them cannot afford health care insurance at the current rates. My proposal would improve the affordability of health care insurance so that many of these workers would be able to afford coverage.

For example, under Blue Cross Blue Shield's Standard Option Plan, an individual would save almost $400, and a family would save about $925 this year.

Providing quality benefits for federal employees is also an important tool in helping recruit and retain a high quality workforce and compete with the private sector and other State and local governments.

This bill would have an enormous impact in my State, Maryland, but would also benefit Federal workers nationally. Under this proposal, the percent that a Federal employee pays in health insurance premiums would decline, putting more money into Federal employees pockets each pay period.

This bill improves benefits for our hardworking Federal Employees.

I urge my colleagues to join me in expressing support for this bill.

By Mr. GREGG.

S. 320. A bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, the Family and Medical Leave Act was intended to be used by families for critical periods such as after the birth or adoption of a child and leave to care for a child, spouse, or one's own ''serious medical condition.''

Since its passage, the Family and Medical Leave Act has had a significant impact on employers' leave practices and policies. According to the Commission on Family and Medical Leave, two-thirds of covered work sites have changed some aspect of their policies in order to comply with the Act.

Unfortunately, the Department of Labor's implementation of certain provisions of the Act has resulted in significant unintended administrative burden and costs on employers; resentment by co-workers when the Act is misapplied; invasions of privacy by requiring employers to ask deeply personal questions about employees and family members when employees plan to take FMLA leave; disruptions to the workplace due to increased unscheduled and unplanned absences; unnecessary record keeping; unworkable notice requirements; and conflicts with existing policies. These problems have been well documented in six separate congressional hearings, including one I chaired and a House hearing where I testified.

Problems with the FMLA implementation have been documented in the courts. The validity of 13 different Department of Labor regulations relating to the Act has been challenged in 64 reported court decisions. Included in this, of course, is the Supreme Court's invalidation of one of the Department's regulations in the 2002 case of Ragsdale v. Wolverine Worldwide Inc. And, yesterday's Washington Post reported that there have been some 1,300 Federal cases dealing with various aspects of the law, according to the Department of Labor.

The Department of Labor's vague and confusing implementing regulations and interpretations have resulted in the FMLA being misapplied, misunderstood and mistakenly ignored. Employers aren't sure if situations like pink eye, ingrown toenails and even the common cold will be considered by the regulators and the courts to be serious health conditions. Because of these concerns and well-documented problems with the Act, today I am introducing the Family and Medical Leave Clarification Act to make reasonable and much needed technical corrections to the Family and Medical Leave Act and restore it to its original congressional intent.

The need for FMLA technical corrections has been confirmed and strengthened by six congressional hearings and by the recent release of key surveys. Conclusive evidence of the need for corrections has now been established. The Congressional hearings demonstrated that the FMLA's definition of serious health condition is vague and overly broad due to the Department of Labor's interpretations. Additionally, the hearings documented that the intermittent leave provisions, notification, and certification problems are causing many serious workplace problems. In addition, some companies testified that Congress should consider allowing employers to permit employees to take either a paid leave package under an existing collective bargaining agreement or the 12 weeks of FMLA protected leave, whichever is greater.

I am concerned that a recent decrease in paid leave for employees has been attributed to the administration's problematic FMLA interpretations. Some research shows a decline in voluntarily provided paid sick leave and vacation leave by the private sector. The 2000 Society for Human Resource Management Benefits Survey found that paid vacation was provided by 87 percent of companies in the year 2000 while the year before it was 94 percent. Paid sick leave was at 85 percent in 1999, and decreased to 74 percent the following year.

A recent survey conducted by former President Clinton's Department of Labor confirmed FMLA implementation problems. The Labor Department report found that the share of covered establishments reporting that it was somewhat or very easy to comply with the FMLA has declined 21.5 percent from 1995 to 2000.

The recent release of the Society for Human Resource Management, SHRM, 2003 FMLA Survey strongly reinforces the need for FMLA technical corrections. Respondents to the SHRM survey stated that, on average, more than half, or 52 percent, of employees who take FMLA leave do not schedule the leave in advance. Consequently, managers often do not have the ability to plan for work disruptions. Yesterday's Washington Post article reported that the biggest thing the Department of Labor hears about is the ''chronic use of unforseen, intermittent leave.'' Respondents to the SHRM survey also reported that, in most cases, the burden of the workload from the employee on leave falls to employees who are not on

leave. When asked whether they have had to grant FMLA requests they felt were not legitimate, 50 percent said they had. Additionally, more than one-third, or 34 percent, of respondents said they were aware of employee complaints over the past year regarding a co-worker's questionable use of FMLA leave.

The issue of intermittent leave also continues to be extremely difficult. SHRM's 2000 FMLA survey showed that three-quarters, or 76 percent, of respondents said they would find compliance easier if the Department of Labor allowed FMLA leave to be offered and tracked in half-day increments rather than by minutes.

I am very concerned that both the SHRM and the Labor Department surveys show that FMLA implementation is becoming more difficult, not easier, ten years after it has been in place. I am hopeful that the Family and Medical Leave Clarification Act will advance in the 108th Congress on a bipartisan basis to address this problem.

The FMLA Clarification Act has the strong support of the Society for Human Resource Management, the U.S. Chamber of Commerce, the National Association of Manufacturers, the American Society of Healthcare Human Resources Professionals, and close to 300 other leading companies and associations that make up the Family and Medical Leave Act Technical Corrections Coalition. This broad-based coalition shares my belief that both employers and employees would benefit from making certain technical corrections to the FMLA, corrections that are needed to restore congressional intent and to reduce administrative and compliance problems experienced by employers who are making a good faith effort to comply with the Act.

The bill I am introducing today does several important things:

First, it repeals the Department of Labor's current regulations for ''serious health condition'' and includes language from the Democrats' own original Committee Report on what types of medical conditions, such as heart attacks, strokes, spinal injuries, etc., were intended to be covered. In passing the FMLA, Congress stated that the term ''serious health condition'' is not intended to cover short-term conditions, for which treatment and recovery are very brief, recognizing that ''it is expected that such condition will fall within the most modest sick leave policies.''

On the other hand, the Department of Labor's current regulations are extremely confusing and expansive, defining the term ''serious health condition'' as including, among other things, any absence of more than 3 days in which the employee sees any health care provider and receives any type of continuing treatment, including a second doctor's visit, or a prescription, or a referral to a physical therapist. Such a broad definition potentially mandates FMLA leave where an employee sees a health care provider once, receives a prescription drug, and is instructed to call the health care provider back if the symptoms do not improve. The regulations also define as a ''serious health condition'' any absence for a chronic health problem, such as arthritis, asthma, diabetes, etc., even if the employee does not see a doctor for that absence and is absent for less than three days.

Second, the bill amends the act's provisions relating to intermittent leave to allow employers to require that intermittent leave be taken in minimum blocks of 4 hours. This would minimize the misuse of FMLA by employees who use FMLA as an excuse for regular tardiness and routine justification for early departures.

Third, the bill shifts to the employee the responsibility to request that leave be designated as FMLA leave, and requires the employee to provide written application within 5 working days of providing notice to the employer for foreseeable leave.

With respect to unforeseeable leave, the bill requires the employee to provide, at a minimum, oral notification of the need for the leave not later than the date the leave commences unless the employee is physically or mentally incapable of providing notice or submitting the application. Under that circumstance the employee is provided such additional time as necessary to provide notice.

Shifting the burden to the employee to request that leave be designated as FMLA leave eliminates the need for the employer to question the employee and pry into the employee's and the employee's family's private matters, as required under current law, and helps eliminate personal liability for employer supervisors who should not be expected to be experts in the vague and complex regulations which even attorneys have a difficult time understanding.

Under current law, it is the employer's responsibility in all circumstances to designate leave, paid or unpaid, as FMLA-qualifying. Failure to do so in a timely manner or to inform an employee that a specific event does not qualify as FMLA leave may result in that unqualified leave becoming qualified leave under FMLA. In addition, the courts have held that there is personal liability for employers under the FMLA and that an individual manager may be sued and held individually liable for acts taken based upon or relating to the FMLA. For example, in the 1995 case of Freemon v. Foley, in the Northern District of Illinois, the court stated, ''We believe the FMLA extends to all those who controlled 'in whole or in part' [plaintiff's] ability to take leave of absence and return to her position.''

Fourth, with respect to leave because of the employee's own serious health condition, the bill permits an employer to require the employee to choose between taking unpaid leave provided by the FMLA or paid absence under an employer's collective bargaining agreement or other sick leave, sick pay, or disability plan, program, or policy of the employer. This change provides incentive for employers to continue their generous sick leave policies while providing a disincentive to employers considering getting rid of such employee-friendly plans, including those negotiated by the employer and the employee's union representative. Paid leave would be subject to the employer's normal work rules and procedures for taking such leave, including work rules and procedures dealing with attendance requirements.

The FMLA Clarification Act is a reasonable response to the concerns that have been raised about the Act. It leaves in place the fundamental protections of the law while attempting to make changes necessary to restore FMLA to its original intent and to respond to the very legitimate concerns that have been raised. I urge my colleagues to restore the FMLA to its original Congressional intent.

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

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

S. 320

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Family and Medical Leave Clarification Act''.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Family and Medical Leave Act of 1993 (referred to in this section as the ''Act'') is not working as Congress intended when Congress passed the Act in 1993. Many employers, including those employers that are nationally recognized as having generous family-friendly benefit and leave programs, are experiencing serious problems complying with the Act.

(2) The Department of Labor's overly broad regulations and interpretations have caused many of those problems by greatly expanding the Act's coverage to apply to many non-serious health conditions.

(3) Those problems are also documented in a review of litigation under the Act. The validity of 13 different Department of Labor regulations relating to the Act has been challenged in 64 reported court decisions.

(4) From 1996 through 2002, 6 congressional hearings (2 in the Senate and 4 in the House of Representatives) documented numerous implementation problems with the Act due to the Department of Labor's misapplication of the Act through some of its regulations and interpretations.

(5) Documented problems generated by the Act include significant new administrative and personnel costs, loss of productivity,

scheduling difficulties, unnecessary paperwork and recordkeeping, and other compliance problems.

(6) The Act often conflicts with employers' paid sick leave policies, prevents employers from managing absences through their absence control plans, and results in most leave under the Act becoming paid leave.

(7) Administrative problems associated with the use of intermittent leave under the Act are a well-documented issue. Approximately ¾ (76 percent) of the respondents to a 2000 survey by the Society for Human Resource Management said they would find compliance easier if the Department of Labor allowed covered leave to be offered and tracked in increments of half days rather than minutes.

(8) The Commission on Leave, established in title III of the Act (29 U.S.C. 2631 et seq.) which in 1996 reported few difficulties with compliance with the Act, failed to identify many of the problems with compliance because the survey on which the report was based was conducted too soon after the date of enactment of the Act and the most significant problems with compliance arose only when employers later sought to comply with the Act's final regulations and interpretations.

(9) A more recent Department of Labor survey, released in January 2001 as an update requested by Congress to the 1996 Commission on Leave report, found that between 1995 and 2000, there had been a 21.5 percent decline in the share of covered establishments reporting that it was somewhat easy or very easy to comply with the Act.

(10) According to the Society for Human Resource Management 2003 FMLA Survey, 50 percent of human resource professionals indicated that they have had to grant leave requests under the Act that they did not believe were legitimate because of the Department of Labor's interpretations, and 34 percent of human resource professionals were aware of employee complaints in the past 12 months due to coworkers' questionable use of leave under the Act.

SEC. 3. DEFINITION OF SERIOUS HEALTH CONDITION.

Section 101(11) (29 U.S.C. 2611(11)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by aligning the margins of those clauses with the margins of clause (i) of paragraph (4)(A);

(3) by inserting before ''The'' the following: ''(A) IN GENERAL.—''; and

(4) by adding at the end the following:

''(B) EXCLUSIONS.—The term does not include a short-term illness, injury, impairment, or condition, for which treatment and recovery are very brief.

''(C) EXAMPLES.—The term includes an illness, injury, impairment, or physical or mental condition such as a heart attack, a heart condition requiring a heart bypass or valve operation, a back condition requiring extensive therapy or a surgical procedure, a stroke, a severe respiratory condition, a spinal injury, appendicitis, pneumonia, emphysema, severe arthritis, a severe nervous disorder, an injury caused by a serious accident on or off the job, an ongoing pregnancy, a miscarriage, a complication or illness related to pregnancy (such as severe morning sickness), a need for prenatal care, childbirth, and recovery from childbirth, that involves care or treatment described in subparagraph (A).''.

SEC. 4. INTERMITTENT LEAVE.

Section 102(b)(1) (29 U.S.C. 2612(b)(1)) is amended by striking the period at the end of the second sentence and inserting the following: '', as certified under section 103 by the health care provider involved after each leave occurrence. An employer may require an employee to take intermittent leave under this Act in increments of up to (and including) ½ of a workday. An employer may require an employee who travels as part of the normal day-to-day work or duty assignment of the employee and who requests intermittent leave or leave on a reduced leave schedule under this Act to take leave for the duration of the work or assignment involved, if the employer cannot reasonably accommodate the employee's request.''.

SEC. 5. REQUEST FOR LEAVE.

Section 102(e) (29 U.S.C. 2612(e)) is amended by inserting after paragraph (2) the following:

''(3) REQUEST FOR LEAVE.—If an employer does not exercise, under subsection (d)(2), the right to require an employee to substitute other employer-provided leave for leave under this title, the employer may require the employee who wants leave under this title to request the leave in a timely manner. If an employer requires a timely request under this paragraph, an employee who fails to make a timely request may be denied leave under this title.

''(4) TIMELINESS OF REQUEST FOR LEAVE.—For purposes of paragraph (3), a request for leave shall be considered to be timely if—

''(A) in the case of foreseeable leave, the employee—

''(i) provides the applicable advance notice required by paragraphs (1) and (2); and

''(ii) submits any written application required by the employer for the leave not later than 5 working days after providing the notice to the employer; and

''(B) in the case of unforeseeable leave, the employee—

''(i) notifies the employer orally of the need for the leave—

''(I) not later than the date the leave commences; or

''(II) during such additional period as may be necessary, if the employer is physically or mentally incapable of providing the notification; and

''(ii) submits any written application required by the employer for the leave—

''(I) not later than 5 working days after providing the notice to the employer; or

''(II) during such additional period as may be necessary, if the employee is physically or mentally incapable of submitting the application.''.

SEC. 6. SUBSTITUTION OF PAID LEAVE.

Section 102(d)(2) (29 U.S.C. 2612(d)(2)) is amended by adding at the end the following:

''(C) PAID ABSENCE.—Notwithstanding subparagraphs (A) and (B), with respect to leave provided under subsection (a)(1)(D), if an employer provides a paid absence under the employer's collective bargaining agreement, an employee welfare benefit plan under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), or under any other sick leave, sick pay, or disability plan, program, or policy of the employer, the employer may require the employee to choose between the paid absence and unpaid leave provided under this title.''.

SEC. 7. REGULATIONS.

(a) EXISTING REGULATIONS.—

(1) REVIEW.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall review all regulations issued before that date to implement the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), including the regulations published in sections 825.114 and 825.115 of title 29, Code of Federal Regulations.

(2) TERMINATION.—The regulations described in paragraph (1), and opinions letters promulgated under the regulations, cease to be effective on the effective date of final regulations issued under subsection (b)(2)(B), except as described in subsection (c).

(b) REVISED REGULATIONS.—

(1) IN GENERAL.—The Secretary of Labor shall issue revised regulations implementing the Family and Medical Leave Act of 1993 that reflect the amendments made by this Act.

(2) NEW REGULATIONS.—The Secretary of Labor shall issue—

(A) proposed regulations described in paragraph (1) not later than 90 days after the date of enactment of this Act; and

(B) final regulations described in paragraph (1) not later than 180 days after that date of enactment.

(3) EFFECTIVE DATE.—The final regulations take effect 90 days after the date on which the regulations are issued.

(c) TRANSITION.—The regulations described in subsection (a) shall apply to actions taken by an employer prior to the effective date of final regulations issued under subsection (b)(2)(B), with respect to leave under the Family and Medical Leave Act of 1993.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act take effect 180 days after the date of enactment of this Act.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. BIDEN, Mr. DEWINE, and Ms. CANTWELL):

S. 321. A bill to provide for the establishment of a scientific basis for new firefighting technology standards, improve coordination among Federal, State, and local fire officials in training for and responding to terrorist attacks and other national emergencies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined by Senators HOLLINGS, BIDEN, DEWINE, and CANTWELL in introducing the Firefighting Research and Coordination Act. This legislation would provide for the establishment of a scientific basis for new firefighting technology standards; improved coordination between Federal, State, and local fire officials in training and response to a terrorist attack or a national emergency; and authorize the National Fire Academy to offer training to improve the ability of firefighters to respond to events such as the tragedy of September 11, 2001. Representatives CAMP, DEUTSCH, ISRAEL, ETHERIDGE, and WELDON are introducing companion legislation. Similar legislation was approved by the Senate Commerce Committee last September.

The purpose of this legislation is to act upon some of the lessons learned from the tragic terrorist attacks, and also address other problems faced by the fire services. On September 11, the New York City firefighters and emergency service personnel acted with great heroism in selflessly rushing to the World Trade Center and saving the lives of many Americans. Tragically, 343 firefighters and EMS technicians paid the ultimate price in the service of their country.

While we strive to prevent any future attack in the United States, it is our duty to ensure that we are adequately prepared to respond to any future catastrophic act of terrorism. In addition,

we must recognize that many of the preparations we make to improve the response to national emergencies also will aid our firefighters for their everyday role in protecting our families and homes.

Today's firefighters use a variety of technologies including thermal imaging equipment, devices for locating firefighters and victims, and state-of-the-art protective suits to fight fires, clean up chemical or hazardous waste spills, and contend with potential terrorist devices. The Federal Government's Firefighter Investment and Response Enhancement, FIRE, program is authorized for $900 million for Fiscal Year 2004 to assist local fire departments in purchasing this high-tech equipment. It is important that the American taxpayers' money is used to buy equipment that will effectively protect our local communities and the responders.

Unfortunately, there are no uniform technical standards for new equipment used in combating fires. Without such standards, local fire companies may purchase equipment that does not satisfy their needs, or even purchase faulty equipment. A January 2003 Consumer Reports article states that much of the emergency equipment sold today is not tested or certified by the government or independent labs. The article states that ''the confusion will get worse, emergency departments say, as new equipment floods the market in response to increased government funding.'' The lives of professional and volunteer emergency personnel, and the citizens they protect, are at risk from untested equipment.

This bill seeks to address the need for new equipment standards by establishing a scientific basis for voluntary consensus standards. It would authorize the U.S. Fire Administrator to work with the National Institute of Standards and Technology, the Inter-Agency Board for Equipment Standardization and Inter-Operability, other federal, state, and local agencies, national voluntary consensus standards development organizations, and other interested parties to establish measurement techniques and testing methodologies for new firefighting equipment. These new techniques and methodologies will act as a scientific basis for the development of voluntary consensus standards. This bill would allow the federal government to work with the private sector in developing the basic uniform performance criteria and technical standards to ensure the effectiveness and compatibility of these new technologies. The bill would authorize $2.2 million in Fiscal Year 2004 for these efforts.

As my colleagues know, many issues regarding coordination surfaced on September 11. Titan Systems Corporation recently issued an after-action report, on behalf of the fire department of Arlington County, VA, which highlighted problems between the coordination of Washington D.C., and Arlington County fire departments. The report cited the confusion caused by a large influx of self-dispatched volunteers, and increased risk faced by the ''bonafide responders.'' These conclusions are consistent with an article by the current U.S. Fire Administrator, R. David Paulison, in the June 1993 issue of Fire Chief magazine, where he described being overwhelmed by the number of uncoordinated volunteer efforts that poured into Florida after Hurricane Andrew. Additionally, many fire officials and the General Accounting Office, GAO, have highlighted the duplicative nature of many Federal programs and the need for better coordination between Federal, State, and local officials.

The bill seeks to address these problems by directing the U.S. Fire Administrator to provide technical assistance and training for state and local fire service officials to establish nationwide and state mutual aid systems for responding to national emergencies. These mutual aid plans would include collection of accurate asset and resource information to ensure that local fire services could work together to deploy equipment and personnel effectively during an emergency. The bill also would direct the U.S. Fire Administrator to report on the need for a strategy for deploying volunteers, including the use of a national credentialing system. This legislation also would authorize the Director of the Federal Emergency Management Agency to update the Federal Response Plan to incorporate plans for responding to terrorist attacks, especially events in urban areas. This update would include fire detection, suppression, and related emergency services.

The bill would improve the training of State and local firefighters. It would authorize the National Fire Academy to offer courses in building collapse rescue; the use of technology in response to fires caused by terrorist attacks and other national emergencies; leadership and strategic skills including integrated management systems operations; deployment of new technology for fighting forest and wild fires; fighting fires at ports; and other courses related to tactics and strategies for responding to terrorist incidents and other fire services' needs.

Finally, this bill would also direct the U.S. Fire Administrator to coordinate the National Fire Academy's training programs with the Attorney General, Secretary of Health and Human Services and other federal agencies to prevent and eliminate the duplication in training programs that has been identified by the GAO.

In 2001, we were caught unprepared and paid a terrible price as a result. While we will never be able to prevent firefighter deaths because of the risks involved, it is our obligation to help ensure that future firefighters are adequately equipped and trained, and are working in coordination to respond to any future national emergencies.

I am pleased to announce that this legislation is supported by the National Volunteer Fire Council; the Congressional Fire Services Institute; the National Fire Protection Association; the International Association of Fire Chiefs; the International Association of Fire Fighters; the International Association of Arson Investigators; International Society of Fire Service Instructors; North American Fire Training Directors and the International Fire Service Training Association. I ask unanimous consent that the letter of endorsement be printed in the RECORD. I also ask unanimous consent that the text of the bill also be printed in the RECORD.

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

S. 321

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 ''Firefighting Research and Coordination Act''.

SEC. 2. NEW FIREFIGHTING TECHNOLOGY.

(a) IN GENERAL.—Section 8 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2207) is amended—

(1) by redesignating subsection (e) as subsection (f); and

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

''(e) DEVELOPMENT OF NEW TECHNOLOGY.—

''(1) IN GENERAL.—In addition to, or as part of, the program conducted under subsection (a), the Administrator, in consultation with the National Institute of Standards and Technology, the Inter-Agency Board for Equipment Standardization and Inter-Operability, national voluntary consensus standards development organizations, interested Federal, State, and local agencies, and other interested parties, shall—

''(A) develop new, and utilize existing, measurement techniques and testing methodologies for evaluating new firefighting technologies, including—

''(i) personal protection equipment;

''(ii) devices for advance warning of extreme hazard;

''(iii) equipment for enhanced vision;

''(iv) devices to locate victims, firefighters, and other rescue personnel in above-ground and below-ground structures;

''(v) equipment and methods to provide information for incident command, including the monitoring and reporting of individual personnel welfare;

''(vi) equipment and methods for training, especially for virtual reality training; and

''(vii) robotics and other remote-controlled devices;

''(B) evaluate the compatibility of new equipment and technology with existing firefighting technology; and

''(C) support the development of new voluntary consensus standards through national voluntary consensus standards organizations for new firefighting technologies based on techniques and methodologies described in subparagraph (A).

''(2) NEW EQUIPMENT MUST MEET STANDARDS.—For equipment for which applicable voluntary consensus standards have been established, the Administrator shall, by regulation, require that equipment or systems purchased through the assistance program established by section 33 meet or exceed applicable voluntary consensus standards.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 17 of the Federal Fire Prevention

and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following:

''(i) DEVELOPMENT OF NEW TECHNOLOGY.—There are authorized to be appropriated to the Administrator to carry out section 8(e) $2,200,000 for fiscal year 2004.''.

SEC. 3. COORDINATION OF RESPONSE TO NATIONAL EMERGENCY.

(a) IN GENERAL.—Section 10 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2209) is amended—

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

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

''(b) MUTUAL AID SYSTEMS.—

''(1) IN GENERAL.—The Administrator, after consultation with the Director of the Federal Emergency Management Agency, shall provide technical assistance and training to State and local fire service officials to establish nationwide and State mutual aid systems for dealing with national emergencies that—

''(A) include threat assessment and equipment deployment strategies;

''(B) include means of collecting asset and resource information to provide accurate and timely data for regional deployment; and

''(C) are consistent with the Federal Emergency Management Agency's Federal Response Plan.

''(2) MODEL MUTUAL AID PLANS.—The Administrator, in consultation with the Director of the Federal Emergency Management Agency, shall develop and make available to State and local fire service officials model mutual aid plans for both intrastate and interstate assistance.''.

(b) REPORT ON STRATEGIC NEEDS.—Within 90 days after the date of enactment of this Act, the Administrator of the United States Fire Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science on the need for a strategy concerning deployment of volunteers and emergency response personnel (as defined in section 6 of the Firefighters' Safety Study Act (15 U.S.C. 2223e), including a national credentialing system, in the event of a national emergency.

(c) UPDATE OF FEDERAL RESPONSE PLAN.—Within 180 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall—

(1) revise that Agency's Federal Response Plan to incorporate plans for responding to terrorist attacks, particularly in urban areas, including fire detection and suppression and related emergency services; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science describing the action taken to comply with paragraph (1).

SEC. 4. TRAINING.

(a) IN GENERAL.—Section 8(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(d)(1)) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (N); and

(3) by inserting after subparagraph (E) the following:

''(F) strategies for building collapse rescue;

''(G) the use of technology in response to fires, including terrorist incidents and other national emergencies;

''(H) response, tactics, and strategies for dealing with terrorist-caused national catastrophes;

''(I) use of and familiarity with the Federal Emergency Management Agency's Federal Response Plan;

''(J) leadership and strategic skills, including integrated management systems operations and integrated response;

''(K) applying new technology and developing strategies and tactics for fighting forest fires;

''(L) integrating terrorism response agencies into the national terrorism incident response system;

''(M) response tactics and strategies for fighting fires at United States ports, including fires on the water and aboard vessels; and''.

(b) CONSULTATION ON FIRE ACADEMY CLASSES.—The Superintendent of the National Fire Academy may consult with other Federal, State, and local agency officials in developing curricula for classes offered by the Academy.

(c) COORDINATION WITH OTHER PROGRAMS TO AVOID DUPLICATION.—The Administrator of the United States Fire Administration shall coordinate training provided under section 8(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(d)(1)) with the Attorney General, the Secretary of Health and Human Services, and the heads of other Federal agencies—

(1) to ensure that such training does not duplicate existing courses available to fire service personnel; and

(2) to establish a mechanism for eliminating duplicative training programs.

STATEMENT OF SENATOR JOHN MCCAIN, CHAIRMAN, SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON THE FIREFIGHTING RESEARCH AND COORDINATION ACT

Mr. President, I am pleased to be joined by Senators Hollings, Biden, DeWine and Cantwell in introducing the Firefighting Research and Coordination Act. This legislation would provide for the establishment of a scientific basis for new firefighting technology standards; improved coordination between Federal, state, and local fire officials in training and response to a terrorist attack or a national emergency; and authorize the National Fire Academy to offer training to improve the ability of firefighters to respond to events such as the tragedy of September 11, 2001. Representatives Camp, Deutsch, Israel, Etheridge and Weldon are introducing companion legislation. Similar legislation was approved by the Senate Commerce Committee last September.

The purpose of this legislation is to act upon some of the lessons learned from the tragic terrorist attacks, and also address other problems faced by the fire services. On September 11, the New York City firefighters and emergency service personnel acted with great heroism in selflessly rushing to the World Trade Center and saving the lives of many Americans. Tragically, 343 firefighters and EMS technicians paid the ultimate price in the service of their country.

While we strive to prevent any future attack in the United States, it is our duty to ensure that we are adequately prepared to respond to any future catastrophic act of terrorism. In addition, we must recognize that many of the preparations we make to improve the response to national emergencies also will aid our firefighters for their everyday role in protecting our families and homes.

Today's firefighters use a variety of technologies including thermal imaging equipment, devices for locating firefighters and victims, and state-of-the-art protective suits to fight fires, clean up chemical or hazardous waste spills, and contend with potential terrorist devices. The federal government's Firefighter Investment and Response Enhancement (FIRE) program is authorized for $900 million for Fiscal Year 2004 to assist local fire departments in purchasing this high-tech equipment. It is important that the American taxpayers' money is used to buy equipment that will effectively protect our local communities and the responders.

Unfortunately, there are no uniform technical standards for new equipment used in combating fires. Without such standards, local fire companies may purchase equipment that does not satisfy their needs, or even purchase faulty equipment. A January 2003 Consumer Reports article states that much of the emergency equipment sold today is not tested or certified by the government or independent labs. The article states that ''the confusion will get worse, emergency departments say, as new equipment floods the market in response to increase government funding.'' The lives of professional and volunteer emergency personnel—and the citizens they protect—are at risk from untested equipment.

This bill seeks to address the need for new equipment standards by establishing a scientific basis for voluntary consensus standards. It would authorize the U.S. Fire Administrator to work with the National Institute of Standards and Technology, the Inter-Agency Board for Equipment Standardization and Inter-Operability, other federal, state, and local agencies, national voluntary consensus standards development organizations, and other interested parties to establish measurement techniques and testing methodologies for new firefighting equipment. These new techniques and methodologies will act as a scientific basis for the development of voluntary consensus standards. This bill would allow the federal government to work with the private sector in developing the basic uniform performance criteria and technical standards to ensure the effectiveness and compatibility of these new technologies. The bill would authorize $2.2 million in Fiscal Year 2004 for these efforts.

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attacks, especially events in urban areas. This update would include fire detection, suppression, and related emergency services.

The bill would improve the training of state and local firefighters. It would authorize the National Fire Academy to offer courses in building collapse rescue; the use of technology in response to fires caused by terrorist attacks and other national emergencies; leadership and strategic skills including integrated management systems operations; deployment of new technology for fighting forest and wild fires; fighting fires at ports; and other courses related to tactics and strategies for responding to terrorist incidents and other fire services' needs.

Finally, this bill would also direct the U.S. Fire Administrator to coordinate the National Fire Academy's training programs with the Attorney General, Secretary of Health and Human Services and other federal agencies to prevent and eliminate the duplication in training programs that has been identified by the GAO.

In 2001, we were caught unprepared and paid a terrible price as a result. While we will never be able to prevent firefighter deaths because of the risks involved, it is our obligation to help ensure that future firefighters are adequately equipped and trained, and are working in coordination to respond to any future national emergencies.

Mr. President, I am pleased to announce that this legislation is supported by the National Volunteer Fire Council; the Congressional Fire Services Institute; the National Fire Protection Association; the International Association of Fire Chiefs; the International Association of Fire Fighters; the International Association of Arson Investigators; International Society of Fire Service Instructors; North American Fire Training Directors and the International Fire Service Training Association.

JANUARY 31, 2003.

Hon. JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: The tragic events of September 11th certainly underscored the important need for additional training and advanced technologies for our nation's fire and emergency services. They are equal components in our efforts to prepare our nation for future large-scale emergencies that require rapid deployment of local first responders.

In the area of technology, we have witnessed an emergence of new technologies designed to improve our level of readiness to future terrorist events and other large-scale disasters. Many of these new technologies have the potential to improve the capabilities of our first responders, however we must ensure that these technologies serve their intended purpose and protect our firefighters and emergency medical personnel. What's most important is to ensure local response agencies quick access to new technologies while guaranteeing that they meet minimum safety standards.

We extend our appreciation for your interest in this matter and for introducing the Firefighter Research and Coordination Act. We support this legislation as a crucial step towards developing and deploying advanced technologies our nation's first responders need in this period of heightened risk and security.

The legislation directs certain federal agencies and other interested parties, including the National Fire Protection Association, to develop a scientific basis for the private sector development of standards for new fire fighting technology. Your legislation will not undermine or duplicate the standards-making process that has served the fire service for over a hundred years, but rather strengthen it in areas of new technologies necessitated by the events of September 11th.

We also support the other sections of your legislation calling for coordination of response to national emergencies and for increased training. These are critical to the effective deployment and safety of first responders at major incidents. By calling upon the United States Fire Administration to provide technical assistance and training to state and local jurisdictions in developing state, regional and national mutual aide agreements, the legislation addresses the appropriate role for USFA in this process. In addition, we certainly support authorizing the National Fire Academy more latitude in the types of terrorism training programs it conducts for our nation's first responders. And lastly, we express our full support for authorizing USFA to address the issue of a national credentialing system. It is imperative that we establish the most effective credentialing process to improve the accountability of firefighter skill levels at major events.

We look forward to working with you in advancing this legislation through Congress. Again, we thank you for your continued support.

Sincerely,

Congressional Fire Services Institute, International Association of Arson Investigators, International Association of Fire Chiefs, International Association of Fire Fighters, International Fire Service Training Association, International Society of Fire Service Instructors, National Fire Protection Association, National Volunteer Fire Council, North American Fire Training Directors.

By Mr. INOUYE:

S. 322. A bill to amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from taxes on air transportation; to the Committee on Finance.

Mr. INOUYE. Mr. President, I rise to introduce a bill that would amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from the air transportation excise tax. A clarifying amendment to the tax code is needed due to a problem that exists in the application of the excise tax.

In 1986, the Internal Revenue Services, IRS, issued a Private Letter Ruling in which it exempted one Hawaii-based air tour operator from paying the air passenger transportation excise tax, but has not applied equal treatment to other similarly situated aerial sightseeing tour operators. It is my belief that the IRS should be consistent in its application of this excise tax.

Under current law, a variety of excise taxes on air transportation are imposed to finance the Airport and Airway Trust Funds program that is administered by the Federal Aviation Administration. For example, an air passenger transportation excise tax is imposed on users of our nation's airports and airways. The Congress intended that the tax be levied on passengers traveling on scheduled commercial airlines. In addition, for the most part, the tax is imposed on each flight segment.

The Congress did not intend to have the tax applied to air tour operators, who utilize our system of airways differently. Our national transportation system receives little or no benefit from aerial sightseeing operations. Air tour operations are not scheduled commercial airlines. They are for entertainment purposes and are circular, in that they begin and end at the same destination point.

Hawaii is among a small handful of States where our citizens can enjoy aerial tours of sights that are remote or difficult to reach by land. Aerial sightseeing tours are also enjoyed in Alaska, California, Washington, Arizona, and even New York City. The imposition of the air transportation excise tax on aerial sightseeing flights will significantly raise the consumer price on air tours. Doing so will cause many small aerial sightseeing tour operators, especially in my home state, to lose customers. Many of these small companies have struggled to stay in business after incurring significant losses in the months following September 11, 2001, when our government imposed flight restrictions across the nation. Those flight restrictions prevented many flight operations in all segments of the general aviation industry for many months into early 2002.

Accordingly, I urge my colleagues to support my bill, which would amend the Internal Revenue Code of 1986 to exempt certain sightseeing trips from the air transportation excise tax. Under my bill, air tour operations would still be subject to the aviation fuel excise tax.

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

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

S. 322

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

SECTION 1. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 of the Internal Revenue Code of 1986 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: ''For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date.

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

Ms. LANDRIEU. Mr. President, today I rise, along with Senator BREAUX to introduce a bill to establish the Atchafalaya National Heritage Area in Louisiana. This legislation has particularly special meaning to those of us from Louisiana because of the importance of the cultural and natural resources of the Atchafalaya region to the Nation.

This legislation, reported by the Energy and Natural Resources Committee and unanimously passed by the full Senate during the 107th Congress, would establish a framework to help protect, conserve, and promote these unique natural, cultural, historical, and recreational resources of the region.

Specifically, the legislation would establish a National Heritage Area in Louisiana that encompasses thirteen parishes in and around the Atchafalaya Basin swamp, America's largest river swamp. The heritage area in south-central Louisiana stretches from Concordia parish to the north, where the Mississippi River begins to partially flow into the Atchafalaya River, all the way to the Gulf of Mexico in the south. The thirteen parishes are: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge. This boundary is the same area covered by the existing Atchafalaya Trace State Heritage Area.

This measure will appoint the existing Atchafalaya Trace Commission as the federally recognized ''local coordinating entity.'' The commission is composed of thirteen members with one representative appointed by each parish in the heritage area. Both the Atchafalaya Trace Commission and the Atchafalaya Trace State Heritage Area were created by the Louisiana Legislature a number of years ago. The Atchafalaya Trace State Heritage Area program currently receives some State funding, and already has staff working at the Louisiana Department of Culture, Recreation & Tourism, DCRT, under Lieutenant Governor Kathleen Blanco. State funds were used to create the management plan for the heritage area, which followed ''feasibility analysis'' guidelines as recommended by the National Park Service. Therefore, the recently-completed management plan need only be submitted to the Secretary of the Interior for approval as this legislation would recognize an existing local coordinating entity that will oversee the implementation of this plan. We are very proud that this state heritage area has already completed the complicated planning process, with participation of local National Park Service representatives, while using a standard of planning quality equal to that of existing national heritage areas. All at no cost to the Federal Government.

Please let me also emphasize that this legislation protects existing private property rights. It will not interfere with local land use ordinances or regulations, as it is specifically prohibited from doing so. Nor does this legislation grant any powers of real property acquisition to the local coordinating entity or heritage area program. In addition, the legislation does not impose any environmental rule or process or cause any change in Federal environmental quality standards different from those already in effect.

Heritage areas are based on cooperation and collaboration at all levels. This legislation remains true to the core concept behind heritage areas. The heritage area concept has been used successfully in various parts of our Nation to promote historic preservation, natural and cultural resource protection, heritage tourism and sustainable economic revitalization for both urban and rural areas. Heritage areas provide a flexible framework for government agencies, private organizations and businesses and landowners to work together on a coordinated regional basis. The Atchafalaya National Heritage Area will join the Cane River National Heritage Area to become the second National Heritage Area in Louisiana, ultimately joining the 23 existing National Heritage Areas around the Nation.

The initiative to develop the Atchafalaya National Heritage Area is an outgrowth of a grassroots effort to achieve multiple goals of this region. Most important among these is providing opportunities for the future, while at the same time not losing anything that makes this place so special. Residents from all over the region, local tourism agencies, State agencies such as the DCRT and the Department of Natural Resources, the State legislature, Federal agencies including the National Park Service and U.S. Army Corps of Engineers, parish governments, conservation and preservation groups, local businesses and local landowners have all participated in this endeavor to make it the strong initiative it is today. These groups have been very supportive of the heritage area effort, and as time moves on, the heritage area will continue to involve more and more of the area's most important resource, its people.

I would also like to give you a brief overview of the resources that make this place significant to the entire country. Not only is it important to our Nation's history, but it is also critical to understanding America's future. The name of the place itself, Atchafalaya, comes from the American Indians and means ''long river.'' This name signifies the first settlers of the region, descendants of whom still live there today.

Other words come to mind in describing the Atchafalaya: mysterious, dynamic, multi-cultural, enchanting, bountiful, threatened and undiscovered. This region is one of the most complex and least understood places in Louisiana and the Nation. Yet, the stories of the Atchafalaya Heritage Area are emblematic of the broader American experience. Here there are opportunities to understand and witness the complicated, sometimes harmonious, sometimes adversarial interplay between nature and culture. The history of the United States has been shaped by the complex dance of its people working with, against, and for, nature. Within the Atchafalaya a penchant for adventure, adaptation, ingenuity, and exploitation has created a cultural legacy unlike anywhere else in the world.

The heart of the heritage area is the Atchafalaya Basin. It is the largest river swamp in the United States, larger than the more widely known Everglades or Okefenokee Swamp. The Atchafalaya is characterized by a maze of streams, and at one time was thickly forested with old-growth cypress and tupelo trees. The Basin provides outstanding habitat for a remarkably diverse array of wildlife, including the endangered American bald eagle and Louisiana black bear. The region's unique ecology teems with life. More than 85 species of fish; crustaceans, such as crawfish; wildlife, including alligators; an astonishing array of well over 200 species of birds, from waterfowl to songbirds; forest-dwelling mammals such as deer, squirrel, beaver and other commercially important furbearers all make their home here. Bottomland hardwood-dependent bird species breed here in some of the highest densities ever recorded in annual North American Breeding Bird Surveys. The Basin also forms part of the Mississippi Valley Flyway for migratory waterfowl and is a major wintering ground for thousands of these geese and ducks. In general, the Atchafalaya Basin has a significant proportion of North America's breeding wading birds, such as herons, egrets, ibises, and spoonbills. Some of the largest flocks of Wood Storks in North America summer here, and the southern part of the Basin has a healthy population of Bald Eagles nesting every winter.

The region's dynamic system of waterways, geology, and massive earthen guide levees reveals a landscape that is at once fragile and awesome. The geology and natural systems of the Atchafalaya Heritage Area have fueled the economy of the region for centuries. For decades the harvest of cypress, cotton, sugar cane, crawfish, salt, oil, gas, and Spanish moss, have been important sources of income for the region's residents. The crawfish industry has been particularly important to the lives of Atchafalaya residents and Louisiana has become the largest crawfish producer in the United States. Sport fishing and other forms of commercial fishing are important here, too, but unfortunately, natural resource extraction and a changing environment have drastically depleted many of these resources and forced residents to find new ways to make a living.

Over the past century, the Atchafalaya Basin has become a study of man's monumental effort to control nature. After the catastrophic Mississippi River flood of 1927 left thousands dead and millions displaced, the U.S. Congress decreed that the U.S. Army Corps of Engineers should develop an intricate system of levees to

protect human settlements, particularly New Orleans. Today, the Mississippi River is caged within the walls of earthen and concrete levees and manipulated with a complex system of locks, barrages and floodgates. The Atchafalaya River runs parallel to the Mississippi and through the center of the Basin. In times of flooding the river basin serves as the key floodway in controlling floodwaters headed for the large population centers of Baton Rouge and New Orleans by diverting water from the Mississippi River to the Gulf of Mexico. This system was sorely tested in 1973 when floodwaters threatened to break through the floodgates and permanently divert the Mississippi River into the Atchafalaya. However, after this massive flood event, new land started forming off the coast. These new land formations make up the Atchafalaya Delta, and is the only significant area of new land being built in the United States. These vast amounts of Mississippi River sediment are also rapidly filling in the Basin itself, raising the level of land in certain areas of the basin and filling in lakes and waterways. And to demonstrate just how complex this ecosystem is, one only needs to realize that just to the East of the Delta, Terrebonne parish, also in the heritage area, is experiencing some of the most significant coastal land loss in the country.

Over the centuries, the ever-changing natural environment has shaped the lives of the people living in the Basin. Residents have profited from and been imperiled by nature. The popular cultural identity of the region is strongly associated with the Cajuns, descendants of the French-speaking Acadians who settled in south Louisiana after being deported by the British from Nova Scotia, formerly known as Acadia. Twenty-five hundred to three thousand exiled Acadians repatriated in Louisiana where they proceeded to re-establish their former society. Today, in spite of complex social, cultural, and demographic transformations, Cajuns maintain a sense of group identity and continue to display a distinctive set of cultural expressions nearly two-hundred-and-fifty years after their exile from Acadia. Cajun culture has become increasingly popular outside of Louisiana. Culinary specialties adapted from France and Acadia such as etouffee, boudin, andouille, crepes, beignets and sauces thickened with roux, delight food lovers well beyond Louisiana's borders. Cajun music has also ''gone mainstream'' with its blend of French folk songs and ballads and instrumental dance music, and more recently popular country, rhythm-and-blues, and rock music influences. While the growing interest in Cajun culture has raised appreciation for its unique traditions, many of the region's residents are concerned about the growing commercialization and stereotyping that threatens to diminish the authentic Cajun ways of life.

While the Atchafalaya Heritage Area may be well known for its Cajun culture, there is an astonishing array of other cultures within these parishes. Outside of New Orleans, the Atchafalaya Heritage Area is the most racially and ethnically complex region of Louisiana, and has been so for many years. A long legacy of multiculturalism presents interesting opportunities to examine how so many distinct cultures have survived in relative harmony. There may be interesting lessons to learn from here as our Nation becomes increasingly heterogeneous. The cultural complexity of this region has created a rich tapestry of history and traditions, evidenced by the architecture, music, language, food and festivals unlike any place else. Ethnic groups of the Atchafalaya include: African-Americans, Black Creoles, Asians, Chinese, Filipinos, Vietnamese, Lebanese, Cajuns, Spanish Islenos, Italians, Scotch-Irish, and American Indian tribes such as the Attakapa, Chitimacha, Coushatta, Houma, Opelousa and Tunica-Biloxi.

This heritage area has a wealth of existing cultural, historic, natural, scenic, recreational and visitor resources on which to build. Scenic resources include numerous State Wildlife Management Areas and National Wildlife Refuges, as well as ten designated state scenic byways that fall partially or entirely within the heritage area. The Office of State Parks operates three historic sites in the heritage area, and numerous historic districts and buildings can be found in the region. There are also nine Main Street communities in the heritage area. Outdoor recreational resources include two State Parks and a multitude of waterways and bayous. Hunting, fishing, boating, and canoeing, and more recently birdwatching and cycling, are popular ways to experience the region. Various visitor attractions, interpretive centers and visitor information centers exist to help residents and tourists alike better understand and navigate many of the resources in the heritage area. Major roads link the heritage area's central visitor entrance points and large population centers, especially New Orleans. Much of the hospitality industry servicing the Atchafalaya exists around the larger cities of Baton Rouge, Lafayette and Houma. However, more and more bed and breakfasts and heritage accommodations, such as houseboat rentals, are becoming more numerous in the smaller towns and rural areas.

These are just some of the examples of the richness and significance of this region. This legislation will assist communities throughout this heritage area who are committed to the conservation and appropriate development of these assets. Furthermore, this legislation will bring a level of prestige and national and international recognition that this most special of places certainly deserves.

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

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. 323. A bill to establish the Atchafalaya National Heritage Area, Louisiana; to the Committee on Energy and Natural Resources.

S. 323

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 ''Atchafalaya National Heritage Area Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Atchafalaya Basin area of Louisiana, designated by the Louisiana Legislature as the ''Atchafalaya Trace State Heritage Area'' and consisting of the area described in section 5(b), is an area in which natural, scenic, cultural, and historic resources form a cohesive and nationally distinctive landscape arising from patterns of human activity shaped by geography;

(2) the significance of the area is enhanced by the continued use of the area by people whose traditions have helped shape the landscape;

(3) there is a national interest in protecting, conserving, restoring, promoting, and interpreting the benefits of the area for the residents of, and visitors to, the area;

(4) the area represents an assemblage of rich and varied resources forming a unique aspect of the heritage of the United States;

(5) the area reflects a complex mixture of people and their origins, traditions, customs, beliefs, and folkways of interest to the public;

(6) the land and water of the area offer outstanding recreational opportunities, educational experiences, and potential for interpretation and scientific research; and

(7) local governments of the area support the establishment of a national heritage area.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to protect, preserve, conserve, restore, promote, and interpret the significant resource values and functions of the Atchafalaya Basin area and advance sustainable economic development of the area;

(2) to foster a close working relationship with all levels of government, the private sector, and the local communities in the area so as to enable those communities to conserve their heritage while continuing to pursue economic opportunities; and

(3) to establish, in partnership with the State, local communities, preservation organizations, private corporations, and landowners in the Heritage Area, the Atchafalaya Trace State Heritage Area, as designated by the Louisiana Legislature, as the Atchafalaya National Heritage Area.

SEC. 4. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Atchafalaya National Heritage Area established by section 5(a).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by section 5(c).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area developed under section 7.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Louisiana.

SEC. 5. ATCHAFALAYA NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Atchafalaya National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the whole of the following parishes in the State: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, and East Baton Rouge.

(c) LOCAL COORDINATING ENTITY.—

(1) IN GENERAL.—The Atchafalaya Trace Commission shall be the local coordinating entity for the Heritage Area.

(2) COMPOSITION.—The local coordinating entity shall be composed of 13 members appointed by the governing authority of each parish within the Heritage Area.

SEC. 6. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—For the purposes of developing and implementing the management plan and otherwise carrying out this Act, the local coordinating entity may—

(1) make grants to, and enter into cooperative agreements with, the State, units of local government, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—The local coordinating entity shall—

(1) submit to the Secretary for approval a management plan;

(2) implement the management plan, including providing assistance to units of government and others in—

(A) carrying out programs that recognize important resource values within the Heritage Area;

(B) encouraging sustainable economic development within the Heritage Area;

(C) establishing and maintaining interpretive sites within the Heritage Area; and

(D) increasing public awareness of, and appreciation for the natural, historic, and cultural resources of, the Heritage Area;

(3) adopt bylaws governing the conduct of the local coordinating entity; and

(4) for any year for which Federal funds are received under this Act, submit to the Secretary a report that describes, for the year—

(A) the accomplishments of the local coordinating entity; and

(B) the expenses and income of the local coordinating entity.

(c) ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this Act to acquire real property or an interest in real property.

(d) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly.

SEC. 7. MANAGEMENT PLAN.

(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the Heritage Area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, scenic, cultural, historic, and recreational resources of the Heritage Area.

(b) CONSIDERATION OF OTHER PLANS AND ACTIONS.—In developing the management plan, the local coordinating entity shall—

(1) take into consideration State and local plans; and

(2) invite the participation of residents, public agencies, and private organizations in the Heritage Area.

(c) CONTENTS.—The management plan shall include—

(1) an inventory of the resources in the Heritage Area, including—

(A) a list of property in the Heritage Area that—

(i) relates to the purposes of the Heritage Area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the Heritage Area;

(2) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with this Act;

(3) an interpretation plan for the Heritage Area; and

(4) a program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the Heritage Area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(d) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this Act until a management plan for the Heritage Area is submitted to the Secretary.

(e) APPROVAL.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (d)(1), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(f) REVISION.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this Act shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 8. EFFECT OF ACT.

Nothing in this Act or in establishment of the Heritage Area—

(1) grants any Federal agency regulatory authority over any interest in the Heritage Area, unless cooperatively agreed on by all involved parties;

(2) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act;

(3) grants any power of zoning or land use to the local coordinating entity;

(4) imposes any environmental, occupational, safety, or other rule, standard, or permitting process that is different from those in effect on the date of enactment of this Act that would be applicable had the Heritage Area not been established;

(5)(A) imposes any change in Federal environmental quality standards; or

(B) authorizes designation of any portion of the Heritage Area that is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) as class 1 for the purposes of that part solely by reason of the establishment of the Heritage Area;

(6) authorizes any Federal or State agency to impose more restrictive water use designations, or water quality standards on uses of or discharges to, waters of the United States or waters of the State within or adjacent to the Heritage Area solely by reason of the establishment of the Heritage Area;

(7) abridges, restricts, or alters any applicable rule, standard, or review procedure for permitting of facilities within or adjacent to the Heritage Area; or

(8) affects the continuing use and operation, where located on the date of enactment of this Act, of any public utility or common carrier.

SEC. 9. REPORTS.

For any year in which Federal funds have been made available under this Act, the local coordinating entity shall submit to the Secretary a report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 shall be made available for any fiscal year.

SEC. 11. TERMINATION OF AUTHORITY.

The Secretary shall not provide any assistance under this Act after September 30, 2017.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 45—COMMEMORATING THE ''COLUMBIA'' ASTRONAUTS

Mrs. HUTCHISON (for herself, Mr. NELSON of Florida, Mr. FRIST, Mr. DASCHLE, Mr. CORNYN, Mr. GRAHAM of Florida, Mr. ALEXANDER, Mr. AKAKA, Mr. ALLARD, Mr. BAUCUS, Mr. ALLEN, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BOND, Mr. BINGAMAN, Mr. BROWNBACK, Mrs. BOXER, Mr. BUNNING, Mr. BREAUX, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Ms. CANTWELL, Mr. CHAFEE, Mr. CARPER, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. CONRAD, Mr. COLEMAN, Mr. CORZINE, Ms. COLLINS, Mr. DAYTON, Mr. CRAIG, Mr. DODD, Mr. CRAPO, Mr. DORGAN, Mr. DEWINE, Mr. DURBIN, Mrs. DOLE, Mr. EDWARDS, Mr. DOMENICI, Mr. FEINGOLD, Mr. ENSIGN, Mrs. FEINSTEIN, Mr. ENZI, Mr. HARKIN, Mr. FITZGERALD, Mr. HOLLINGS, Mr. GRAHAM of South Carolina, Mr. INOUYE, Mr. GRASSLEY, Mr. JEFFORDS, Mr. GREGG, Mr. JOHNSON, Mr. HAGEL, Mr. KENNEDY, Mr. HATCH, Mr. KERRY, Mr. INHOFE, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LOTT, Mr. LAUTENBERG, Mr. LUGAR, Mr. LEAHY, Mr. MCCAIN, Mr. LEVIN, Mr. MCCONNELL, Mr. LIEBERMAN, Ms. MURKOWSKI, Mrs. LINCOLN, Mr. NICKLES, Ms.