STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GREGG (for himself, Mr. ALLARD, and Mr. ALEXANDER):

S. 2858. A bill to amend the Internal Revenue Code of 1986 to clarify the proper treatment of differential wage payments made to employees called to active duty in the uniformed services, and for other purposes; to the Committee on Finance.

Mr. GREGG. Mr. President, military action in Afghanistan and Iraq has brought to light another example of how outdated and burdensome government policies can punish generous employers. Employers that continue to pay their employees now on active duty in the uniformed services are experiencing tax and pension difficulties that are discouraging this pro-worker, patriotic gesture. Apparently, when it comes to companies showing their respect for their employees called to serve, there is special meaning to the old cliché ''no good deed goes unpunished.''

The National Committee for Employer Support for the Guard and Reserve, a nationwide association, reports that over 2,500 employers have signed a pledge of support and have gone above and beyond the requirements of the law in support of their National Guard and Reserve employees. This includes many of our Nation's largest and most reputable corporations, including 3M, McDonalds, Wal-Mart, Home Depot, Liberty Mutual and many others. These commendable companies provide reservist employees who are on active duty with ''differential pay'' that makes up the difference between their military stipend and civilian salary.

Not just national companies provide special pay to our men and women who are called to serve overseas. In New Hampshire, some of the most remarkable stories of corporate patriotism can be found. BAE Systems of Nashua provides differential pay to their 25 called-up employees and continuing access to benefits to family members. The company even provides a stipend to make up the lost pay of active duty spouses of company employees when the spouse's employer is not able to provide differential pay.

Consider also the account of Mr. Marian Noronha, Chairman and Founder of Turbocam, a manufacturer based in Dover, New Hampshire. An immigrant from India, Mr. Noronha has not only provided his employees with differential pay and continued family health benefits, but has also extended to each of his activated employees a $10,000 line of credit. His active duty reservist and Guard employees have used this money to, among other things, purchase personal computers so their families can communicate with them while they are overseas. Several other New Hampshire private-sector companies, including Hitchiner Manufacturing Company in Milford, have exemplary records when it comes to dealing with reservist employees. Also, New Hampshire's Governor Benson by Executive Order has extended differential pay for up to 18 months to State employees who have been called to active duty.

Under current law, employers of reservists and guardsmen called up for active duty are required to treat them as if they are on a leave of absence under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). The Act does not require employers to pay reservists who are on active duty. But as I have pointed out, many employers pay the reservists the difference between their military stipends and their regular salaries. Some employers provide this ''differential pay'' for up to three years. For employee convenience, many of these companies also allow deductions from the differential payment for contributions to their 401(k) retirement plans.

The conflict arises, however, because a 1969 IRS Revenue Ruling considers the employment relationship terminated when active duty begins. This ruling prevents employers from treating the differential pay as wages for income tax purposes, resulting in unexpected tax bills at the end of the year for these military personnel. Further, the contributions made to the worker's retirement account potentially invalidate, disqualify, the employer's entire retirement plan which could make all amounts immediately taxable to plan participants and the employer.

The Uniformed Services Differential Pay Protection Act that I am introducing today clarifies that differential wage payments are to be treated as wages to current employees for income tax purposes and that retirement plan contributions are permissible.

Differential wage payments would be treated as wages for income tax withholding purposes and reported on the worker's W–2 form. This means that active duty personnel will not be hit with end-of-the-year tax bills.

No New Taxes: The legislation does not change present law, and deferential wage payments will not be subject to Social Security and unemployment compensation taxes.

Definition: ''Differential wage payments'' are defined to mean any payment which: (1) is made by an employer to an individual while he or she is on active duty for a period of more than 30 days, and (2) represents all or a portion of the wages the individual would have received from the employer if he or she were performing service for the employer.

An individual receiving differential wage payments would continue to be treated as an employee for purposes of the rules applicable to qualified retirement plans, removing the threat that contributions on his or her behalf would invalidate the employer's entire plan.

Distributions Protected: Clarifying language is included to ensure that individuals would continue to be permitted to take distributions from their accounts when they leave their jobs for active duty. Thus, the right to receive distributions will be preserved even though individuals are treated as current employees for contribution purposes. The bill includes a prohibition on making elective deferrals or employee contributions for six months after receiving a distribution.

Satisfying Nondiscrimination Rules: In order to avoid disruptions in retirement savings plans and to remove disincentives, employers could disregard contributions to retirement savings accounts based on differential wage payments for nondiscrimination testing purposes, provided that such payments are available to all mobilized employees on reasonably equivalent terms.

In summary, the Uniformed Services Differential Pay Protection Act upholds the principle that employers should not be penalized for their generosity towards our Nation's reservists and members of the National Guard.

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. 2858

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 ''Uniformed Services Differential Pay Protection Act''.

SEC. 2. INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.

(a) IN GENERAL.—Section 3401 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

''(i) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.—

''(1) IN GENERAL.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

''(2) DIFFERENTIAL WAGE PAYMENT.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

''(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

''(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration paid after December 31, 2004.

SEC. 3. TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.

(a) PENSION PLANS.—

(1) IN GENERAL.—Section 414(u) of the Internal Revenue Code of 1986 (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

''(11) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

''(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

''(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

''(ii) the differential wage payment shall be treated as compensation, and

''(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution which is based on the differential wage payment.

''(B) SPECIAL RULE FOR DISTRIBUTIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

''(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

''(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer performing service in the uniformed services described in section 3401(i)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

''(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term 'differential wage payment' has the meaning given such term by section 3401(i)(2).''

(2) CONFORMING AMENDMENT.—The heading for section 414(u) of such Code is amended by inserting ''AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY'' after ''USERRA''.

(b) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) of the Internal Revenue Code of 1986 (defining compensation) is amended by adding at the end the following new sentence: ''The term 'compensation' includes any differential wage payment (as defined in section 3401(i)(2)).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

By Ms. MURKOWSKI:

S. 2859. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into the law; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. MURKOWSKI. Mr. President, it is a fact that scientists, the media and the public are gradually awakening to the serious disadvantages of fish raised in fish farming operations compared to naturally healthy wild fish species such as Alaska salmon, halibut, sablefish, crab and many other species.

News reports are now common that cite not only the general health advantages of eating fish at least once or twice a week, but the specific advantages of fish such as wild salmon, which contains essential Omega-3 fatty acids that may help reduce the risk of heart disease and possibly have similar beneficial effects on other diseases.

Educated and watchful consumers have also seen recent stories citing research demonstrating that farmed salmon fed vegetable-based food does not have the same beneficial impact on cardio-vascular health, but that the demand for non-vegetable-based food for fish farms may be decimating populations of other key fish species.

Those same alert consumers may also have seen stories indicating that fish farms may create serious pollution problems from the concentration of fish feces and uneaten food, that fish farms may harbor diseases that can be transmitted to previously healthy wild fish stocks, and that fish farming has had a devastating effect on communities that depend on traditional fisheries.

And yet, despite abundant evidence that fish farming practices are deeply problematic, a small cadre of federal bureaucrats continues to push hard for legislation that would encourage the development of huge new fish farms off our coasts. These same people have been pushing the idea for a number of years, and are closer than ever to presenting draft legislation that would vastly expand fish farming by encouraging the development of new farms in the U.S. Exclusive Economic Zone from 3 to 200 miles offshore.

Not only does this small group want to encourage such development, but reports indicate they want to change the rules to place all the decision-making authority over new farms in the hands of just one agency—which just happens to be theirs—rather than continue the current system where authority is spread among the agencies with the greatest expertise in different areas, such as hydraulic engineering, environmental protection, fish biology, etc.

We cannot afford a rush to judgment on this issue—it is far too dangerous if we make a mistake.

The Natural Stock Conservation Act I am introducing today lays down a marker for where this debate needs to go. It would prohibit the development of new offshore aqua-culture operations until Congress has acted to ensure every federal agency involved does the necessary analyses in areas such as disease control, engineering, pollution prevention, biological and genetic impacts, and other critical issues, none of which are specifically required under existing law.

I realize it is far too late in this session to anticipate action on such a controversial and complex issue, but I intend this bill to stimulate further debate on this issue next year, as Congress begins serious work on the future of our ocean programs in response to the U.S. Ocean Commission report. I intend to pursue this discussion vigorously, and I will be calling on other coastal senators to work with me.

We all want to make sure we enjoy abundant supplies of healthy foods in the future, but not if it means unnecessary and avoidable damage to wild species, to the environment generally, and to the economies of America's coastal fishing communities.

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. 2859

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 ''Natural Stock Conservation Act of 2004''.

SEC. 2. PROHIBITION ON PERMITS FOR AQUACULTURE.

The National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 10 and 11 as sections 11 and 12 respectively; and

(2) by inserting after section 9 the following new section:

PROHIBITION ON PERMITS FOR AQUACULTURE

''SEC. 10. (a) IN GENERAL.—The head of an agency with jurisdiction to regulate aquaculture may not issue a permit or license to permit an aquaculture facility located in the exclusive economic zone to operate until after the date on which a bill is enacted into law that—

''(1) sets out the type and specificity of the analyses that the head of an agency with jurisdiction to regulate aquaculture shall carry out prior to issuing any such permit or license, including analyses related to—

''(A) disease control;

''(B) structural engineering;

''(C) pollution;

''(D) biological and genetic impacts;

''(E) access and transportation;

''(F) food safety; and

''(G) social and economic impacts of such facility on other marine activities, including commercial and recreational fishing; and

''(2) requires that a decision to issue such a permit or license be—

''(A) made only after the head of the agency that issues such license or permit

consults with the Governor of each State located within a 200-mile radius of the aquaculture facility; and

''(B) approved by the regional fishery management council that is granted authority under title III of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) over a fishery in the region where the aquaculture facility will be located.

''(b) DEFINITIONS.—In this section:

''(1) AGENCY WITH JURISDICTION TO REGULATE AQUACULTURE.—The term 'agency with jurisdiction to regulate aquaculture' means each agency and department of the United States, as follows:

''(A) The Department of Agriculture.

''(B) The Coast Guard.

''(C) The Department of Commerce.

''(D) The Environmental Protection Agency.

''(E) The Department of the Interior.

''(F) The U.S. Army Corps of Engineers.

''(2) EXCLUSIVE ECONOMIC ZONE.—The term 'exclusive economic zone' has the meaning given that term in section 3 of the of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(3) REGIONAL FISHERY MANAGEMENT COUNCIL.—The term 'regional fishery management council' means a regional fishery management council established under section 302(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)).''.

By Mr. SANTORUM (for himself and Mr. ROCKEFELLER):

S. 2860. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Finance.

Mr. SANTORUM. Mr. President, today I am introducing along with Senator ROCKEFELLER the Fire Sprinkler Incentive Act of 2004. Passage of this bipartisan bill would serve to help reduce the tremendous annual economic and human loss that fire in the United States inflicts on our Nation.

In the United States, fire departments responded to approximately 1.7 million fires in 2002. Annually, over 500,000 of these are structural fires causing approximately 3,400 deaths, around 100 of which are firefighters. Fire also caused some 18.5 million civilian injuries and $10.3 billion in direct property loss. The indirect cost of fire in the United States annually exceeds $80 billion. These losses are staggering. All of this translates to the fact that fire departments respond to a fire every 18 seconds. Every 60 seconds a fire breaks out in a structure and in a residential structure every 80 seconds.

There are literally thousands of high-rise buildings built under older codes that lack adequate fire protection. In addition, billions of dollars were spent to make these and other buildings handicapped accessible, but people with disabilities now occupying these buildings are not adequately protected from fire. At recent code hearings, representatives of the health care industry testified that there are approximately 4,200 nursing homes that need to be retrofitted with fire sprinklers. They further testified that the cost of protecting these buildings with fire sprinklers would have to be raised through corresponding increases in Medicare and Medicaid. In addition to the alarming number of nursing homes lacking fire sprinkler protection, there are literally thousands of assisted living facilities housing older Americans and people with disabilities that lack fire sprinkler protection.

The solution resides in automatic sprinkler systems that are usually triggered within 4 minutes of the temperature rising above 120 degrees. The National Fire Protection Association (NFPA) has no record of a fire killing more than two people in a public assembly, educational, institutional, or residential building that has fully operational sprinklers. Furthermore, sprinklers are responsible for dramatically reducing property loss.

Building owners do not argue with fire authorities over the logic of protecting their building with fire sprinklers. The issue is cost. This bill would drastically reduce the staggering annual economic toll of fire in America and thereby dramatically improve the quality of life for everyone involved. This legislation provides a tax incentive for businesses to install sprinklers through the use of a 5-year depreciation period, opposed to the current 27.5 or 39-year period for installations in residential rental and non-residential real property respectively. While only a start, the bill will help eliminate the massive losses seen in nursing homes, nightclubs, office buildings, apartment buildings, manufacturing facilities, and other for-profit entities.

This bill enjoys support from a variety of organizations. They include: the American Insurance Association, the American Fire Sprinkler Association, the California Department of Forestry and Fire Protection, Campus Firewatch, Congressional Fire Services Institute, Independent Insurance Agents & Brokers of America, International Association of Arson Investigators, International Association of Fire Chiefs, International Fire Service Training Association, National Fire Protection Association, National Fire Sprinkler Association, National Volunteer Fire Council, the Society of Fire Protection Engineers, and the Mechanical Contractors Association of America.

The Fire Sprinkler Incentive Act of 2004 provides long needed safety incentives for building owners that will help fire departments across the country save lives. I ask my colleagues for their support of this important piece of legislation.

Mr. ROCKEFELLER. Mr. President, every 18 seconds a fire department somewhere in America responds to a fire. And sadly, in 2001, not including those killed in the terrorist attacks on September 11, there were almost 4,000 deaths in America resulting from fires, including the deaths of 99 firefighters. Obviously, the Government cannot prevent every tragedy. But when we can help, we ought to. That is why I am proud to introduce legislation today with my friend from Pennsylvania, Senator SANTORUM, that will create incentives for the installation of fire sprinkler systems, which are indisputably effective in limiting death and destruction by fires. The Fire Sprinkler Incentive Act of 2004 will make retrofit installation of fire sprinklers more affordable.

The National Fire Protection Association has no record of a fire killing more than two people in a building that had a properly installed and functioning sprinkler system. Less important than saving lives, but still important, sprinklers can dramatically reduce the property damage caused by fires. Because sprinkler systems are so successful, many jurisdictions require that newly constructed buildings be built with proper fire suppression technology.

Unfortunately, building codes for new construction cannot protect the many people who are living, working, or meeting in older buildings that do not have sprinklers. And because retrofitting buildings is so expensive few property owners can reasonably afford the upgrade. The legislation that the Senator from Pennsylvania and I are introducing today will provide some tax relief to property owners who are willing to make the investment in sprinkler systems that can save lives.

A business that operates nursing homes, for example, may not be able to afford to retrofit its older facilities without charging residents insupportable fees. The Fire Sprinkler Incentive Act will help ameliorate the costs of sprinkler installation by enabling property owners to depreciate the investment over a five-year period. This small change to the Tax Code can result in lives saved and property preserved.

I look forward to working with my colleagues to get this important legislation enacted.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. DEWINE, and Mr. DASCHLE):

S. 2863. A bill to authorize appropriations for the Department of Justice for fiscal years 2005, 2006, and 2007, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today along with my colleagues Senators LEAHY, DEWINE, and SCHUMER to introduce the ''Department of Justice Appropriations Authorization Act, fiscal years 2005 through 2007.'' I want to thank Senator LEAHY for his hard work on this bill. I also want to thank the House Judiciary Committee under the leadership of Chairman SENSENBRENNER for developing legislation upon which we have been able to build.

I am pleased that Congress passed a Department of Justice reauthorization bill last Congress for the first time in over two decades. The bill, however, did not address a number of authorities, including the Office of Justice

Programs. The bill we are introducing today authorizes and consolidates and makes permanent a host of appropriations authorities. These authorities are essential to the administration of the Department of Justice and its ability to accomplish its mission.

The Department of Justice's central duty is to provide security and justice for all Americans. I believe this legislation is essential to the Department's work in protecting America from future terrorist attacks. Importantly, the legislation will facilitate the Department's ability to continue providing much-needed assistance and advice to our state and local law enforcement.

I want to take a moment to highlight some of the more important provisions of this bill. Title I of the bill authorizes appropriations for the major components of the Department for fiscal year 2005 through fiscal year 2007. Among these authorizations are funding for Federal Bureau of Investigation and the newly created Terrorism Threat Integration Center to fight the war against terrorism, and the Drug Enforcement Administration to combat the trafficking of illegal drugs.

Title II of the bill restructures and authorizes many of the grant programs at the Department. Specifically, it restructures the Byrne and Local Law Enforcement Block Grant (LLEBG) programs and authorizes for the first time ever the Local Law Enforcement Block Grant. By merging these two programs into one Edward Byrne Memorial Justice Assistance Grant program (JAG), it will allow states to make one application for funds and streamline the process.

I want to take a moment and address the concern I have heard raised that the merger of these programs will somehow cause states to lose the assistance they rely upon. Although we have combined the funds into one program, we have kept the same purpose areas so that activities and programs funded currently under Byrne and LLEBG may continue to be eligible for funds under the JAG program. Additionally, the money allocated to the JAG program is set up to split the funds 50/50—fifty percent of the JAG funds are allocated in the same manner that Byrne grants are currently allocated, and fifty percent are allocated in the same manner that the LLEBG funds are currently allocated. Each state receives 0.25 percent of the overall funds. Then of the remaining funds, 50 percent is distributed based upon population, similar to the Byrne grants, and the other 50 percent is based on the violent crime rate, similar to the LLEBG. In other words, the JAG program is designed to address the same purposes of the Byrne and LLEBG programs, and funds are intended to be allocated in the same manner. The only difference is that those funds will now come from one pot of money—the JAG account.

That being said, I do share the concern that money for the one pot, the JAG account, will be reduced. I have supported full funding for Byrne and LLEBG grants in the past, and I will continue to support funding for the JAG program. For this reason, this legislation authorizes the JAG account to receive the total amount of funds that both the Byrne and LLEBG programs received in Fiscal Year 2003 plus a 2 percent increase. I am hopeful that the Appropriators will fund the new JAG program at the same level. In fact, one of the benefits of creating one new program is that it will help limit the earmarking of these grants, thus allowing meritorious programs to receive money that may have been previously allocated for some earmark.

In addition to the authorization of the JAG program, this legislation restructures the COPS program as one single block grant program covering all of its current purposes so local governments will need to file only one COPS application for any of these purposes. The bill reauthorizes the Boys and Girls Club of America, the Regional Information Sharing System (RISS), the Crime Free Rural States Grant program, the National Criminal History Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center. Further, the bill makes a number of important changes to grants that assist victims of crime and to the drug courts to enable these valuable programs to be more effective. *In addition, the legislation creates a new Office of Weed and Seed Strategies to replace the never-before authorized executive Office of Weed and Seed Strategies.

The bill includes the Prevention and Recovery of Missing Children Act and the Senior Safety Act to better protect our nation's most vulnerable citizens: our children and seniors. The Prevention and Recovery of Missing Children Act sets standards for the registration of sex offenders which will make our registration system more accurate and reliable. The Senior Safety Act enhances the penalties for crimes committed against seniors, including fraud and telemarketing fraud, and includes a provision to safeguard pensions from fraud and theft.

One of the keys to fighting terrorism is a tough arsenal of laws designed to target those who support or assist terrorists and their cause, such as those who launder money. This legislation includes the Combating Money Laundering and Terrorist Financing Act of 2004 which adds several provisions to the list of specified unlawful activities within the RICO statute that serve as predicate offenses under the money laundering statute. It adds a provision to the civil forfeiture statute to allow for the forfeiture of property outside U.S. territorial boundaries if the property was used in the planning of a terrorist act that occurred within the U.S. It also includes a parallel transaction provision which provides that all parts of a parallel or dependent financial transaction are considered a money laundering offense if one part of that transaction involves the proceeds of an unlawful activity.

This legislation also includes the Koby Mandell Act which creates within the DOJ an Office of Justice for Victims of Overseas Terrorism. The office will assume responsibility for the administration of the Rewards for Justice Program and its website. The office will offer rewards in an effort to capture terrorists involved in harming American citizens overseas. It will also provide other related services including sending U.S. officials to funerals of American victims of terrorism overseas.

This bill also contains important immigration provisions, including the PROMISE Act. The PROMISE Act is an immigration enforcement measure that amends the Immigration and Nationality Act so that those who fail to satisfy their child support obligations are ineligible to enter the United States. Further, those already in the United States will be ineligible for certain immigration benefits, such as citizenship.

This bill is a step in the right direction. I look forward to continuing to work with Senator LEAHY and the House Judiciary Committee to enact this legislation. I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

DOJ REAUTH SECTION BY SECTION

Section 1. Short Title; Table of Contents

Section 1 provides that the bill may be cited as the ''Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007'' and sets forth the table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Section 101. Authorization of Appropriations for Fiscal Year 2005

Section 101 sets forth specific sums authorized to be appropriated to carry out the activities of the Department of Justice for Fiscal Year 2005. These sums are set out in 22 accounts. The numbers generally reflect the President's budget requests for the Department of Justice for Fiscal Year 2004 with a 2% inflation adjustment.

Section 102. Authorization of Appropriations for Fiscal Year 2006

Section 102 sets forth specific sums authorized to be appropriated to carry out the activities of the Department of Justice for Fiscal Year 2006. These sums are set out in 22 accounts. The numbers generally reflect the President's budget requests for the Department of Justice for Fiscal Year 2005 in Section 101 with a 2% inflation adjustment.

Section 103. Authorization of Appropriations for Fiscal Year 2007

Section 103 sets forth specific sums authorized to be appropriated to carry out the activities of the Department of Justice for Fiscal Year 2007. These sums are set out in 20 accounts. The numbers generally reflect the numbers for Fiscal Year 2006 in section 102 with a 2% inflation adjustment.

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

Section 201. Merger of Byrne Grant and Local Law Enforcement Block Grant Programs

Section 201 merges the current Byrne Grant Program (both formula and discretionary) and the Local Law Enforcement Block Grant Programs into one new Edward Byrne Memorial Justice Assistance Grant Program. This will allow states and local governments to make one application for this money annually for a four-year term.

The formula for distributing these grants combines elements of the current Byrne and LLEBG formulas. For allocating money to the states, each state automatically receives 0.25% of the total.

Of the remaining amount, 50% is divided up among the states according to population (the method currently used under Byrne) and 50% is divided up based on the violent crime rate (the method currently used under LLEBG).

Each state's allocation is then divided among state and locals in the following manner. Sixty percent of the allocation goes to the state. Then, that 60% is divided between state and locals based on their relative percentages of overall criminal justice spending within the state. The state keeps its portion of the 60% and gives out the local portion in the state's discretion. This follows how Byrne formula grants are now done.

The remaining 40% of the state's allocation goes directly to the local governments from OJP. Each class of local governments (e.g., cities, counties, townships, etc.) gets a share based on its relative percentage of local criminal justice spending within the state. Within each class, the class's share is divided up between the local governments in that class based on their crime rate. This is similar to how LLEBG grants are now done.

The bill authorizes $1.075 billion for FY 2005 for the program which represents a 2% increase over the amount appropriated for both programs in Fiscal Year 2003. A new feature of the program is that states will be allowed to keep grant funds in interest bearing accounts until spent and then keep the interest. However, all money must be spent during the four-year grant period.

Section 202. Clarification of Official To Be Consulted by Attorney General in Considering Application for Emergency Federal Law Enforcement Assistance

Section 202 amends the Emergency Federal Law Enforcement Assistance program (42 U.S.C. Sec. 10501 et seq.) to clarify that in awarding grants under this program the Attorney General shall consult with the Assistant Attorney General for the Office of Justice Programs rather than the Director of the Office of Justice Assistance. This change simply brings the statute into conformity with the existing chain of command in the Department.

Section 203. Clarification of Uses for Regional Information Sharing System Grants

Section 203 amends the authorization for the Regional Information Sharing System (42 U.S.C. Sec. 3796h) to clarify its regional character and its authority to establish and maintain a secure telecommunications backbone.

Section 204. Authorization of Appropriations for the Regional Information Sharing System Grants to facilitate Federal-State-Local Law Enforcement Response Related to Terrorist Attacks

Section 204 reauthorizes the Regional Information Sharing System for FY 2005–2007 at $100 million each year.

Section 205. Integrity and Enhancement of National Criminal Record Databases

Section 205 amends the authorizing statute for the Bureau of Justice Statistics (42 U.S.C. Sec. 3732): (1) to clarify that the Director shall be responsible for the integrity of data and statistics and the prevention of improper or illegal use or disclosure; (2) to provide specific authorization for the already existing National Criminal History Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center and to facilitate state participation in these systems; and (3) to facilitate data-sharing agreements between the Bureau of Justice Statistics and other federal agencies.

Section 206. Extension of Crime Free Rural States Grant Program

Section 206 reauthorizes the Crime Free Rural States Grant program for FY 2005–2007.

Subtitle B—Building Community Capacity to Prevent, Reduce, and Control Crime

Section 211. Office of Weed and Seed Strategies

Section 211 creates a new Office of Weed and Seed Strategies. This office will replace the current Executive Office of Weed and Seed, and for the first time, this program will have a specific authorization.

Subtitle C—Assisting Victims of Crime

Section 221. Grants to Local Nonprofit Organizations to Improve Outreach Services to Victims of Crime

Section 221 amends the crime victim assistance grants program to allow grants of less than $10,000 to be made to smaller neighborhood and community-based victim service organizations. Currently, grants under this program tend to go to larger organizations, and this amendment simply emphasizes that some of the money spent in this program should go to smaller organizations as well.

Section 222. Clarification and Enhancement of Certain Authorities Relating to Crime Victims Fund

Section 222 makes several minor adjustments to the authorities relating to the Crime Victims Fund.

Subsection 222(1) clarifies that the fund may only accept gifts, donations, or bequests if they do not attach conditions inconsistent with applicable laws or regulations and if they do not require the expenditure of appropriated funds that are not available to the Office of Victims of Crime. Current law establishes a $50 million antiterrorism reserve within the fund. Each year that reserve may be replenished by using up to 5% of the money in the fund that was not otherwise expended during that year.

Subsection 222(2) permits replenishments of the Antiterrorism Emergency Reserve based upon amounts ''obligated'' rather than amounts actually ''expended'' in any given fiscal year.

Subsection 222(3) allows the Assistant Attorney General to direct the use of the funds available for Indian child abuse program grants under 42 U.S.C. Sec. 10601(g) and to use 5% of those funds for grants to Indian tribes to establish victim assistance programs.

Subsection 222(4) clarifies that the Antiterrorism Emergency Reserve may be replenished only once each fiscal year, rather than be continually replenished as amounts are obligated or expended. It also ensures that no AER funds are included in limitations on annual Crime Victims Fund obligations.

Section 223. Amounts Received Under Crime Victim Grants May Be Used by State for Training Purposes

Section 223 amends the grant programs for victim compensation and victim assistance to allow the states part of the reserved amount for administrative costs for training purposes.

Section 224. Clarification of Authorities Relating to Violence Against Women Formula and Discretionary Grant Programs

Section 224 makes several clarifications to the program to fund grants to combat violent crimes against women. Subsection 224(a) clarifies that grants may be used for victim services. Subsection 224(b) corrects an incorrect section number reference in last Congress' DOJ authorization bill. Subsection 224(c) clarifies that grants under the program can be made to Indian tribal domestic violence coalitions and corrects other technical errors and makes conforming changes. Subsection 224(d) changes the reporting requirement on the program from annual to biennial.

Subsection 224(e) clarifies that state and tribal governments may use grant funds under the program to pay for forensic medical exams for sexual assault victims so long as the victims are not required to seek reimbursement from their insurers. It further provides that the victim shall not be required to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for such exam, or both. Subsection 224(f) makes a technical amendment to the heading for this part of the Code.

Section 225. Expansion of Grant Programs Assisting Enforcement of Domestic Violence Cases To Also Assist Enforcement of Sexual Assault Cases

Section 225 amends the programs to provide grants to encourage domestic violence arrest policies and to provide assistance for rural domestic violence and child abuse enforcement to clarify that such grants can also be used to assist enforcement of sexual assault cases.

Subtitle D—Preventing Crime

Section 231. Clarification of Definition of Violent Offender for Purposes of Juvenile Drug Courts

Section 231 amends the juvenile drug court grant program so that offenders who are convicted of a violent misdemeanor may participate in the program. Currently, misdemeanor offenders may participate only if their offense is non-violent.

Section 232. Eligibility for Grants Under Drug Court Grants Program Extended to Courts That Supervise Non-Offenders With Substance Abuse Problems

Section 232 amends the drug court program to allow continuing supervision over nonviolent offenders as well as other related persons who may be before the court. This will allow a drug court to consolidate the cases of related individuals who may be under its jurisdiction at one time and supervise them jointly.

Section 233. Terms of Residential Substance Abuse Treatment Program for Local Facilities

Section 233 amends the Residential Substance Abuse Treatment for State Prisoners program to clarify that the grants should go to local correctional facilities and detention facilities where prisoners are held long enough to carry out a 3-month course of drug treatment.

Section 234. Rural 9–1–1 Service

Section 234 authorizes the Attorney General to provide grants for access to, and improvements on a communications infrastructure that will ensure a reliable and seamless communication between, law enforcement, fire, and emergency medical service providers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area and in States.

Section 235. Methamphetamine Cleanup

Section 235 authorizes the Methamphetamine Cleanup program. The program funds the cleanup of methamphetamine laboratories and related hazardous waste, and provides additional contract personnel, equipment, and facilities to local governments.

Section 236. National Citizens Crime Prevention Campaign

Section 236 authorizes the National Citizens Crime Prevention Campaign for FY 2005–2007 and requires a 30% non-Federal match for all Federal funds.

Section 237. SEARCH, the National Consortium for Justice Information and Statistics

Section 237 authorizes the Bureau of Justice Assistance to award a grant to SEARCH, the National Consortium for Justice Information and Statistics to perform its functions under the direction of the Office of Justice Programs.

Subtitle E—Other Matters

Section 241. Changes to Certain Financial Authorities

Subsection 241 (a) raises from 3 to 6 percent the amount of money collected from civil debt collection activities that can be credited to the Working Capital Fund established under 28 U.S.C. Sec. 527.

Subsection 241 (b) exempts the Southwest Border Initiative from the requirement that it reimburse the Treasury for untimely payments and the requirement that it pay interest to states for untimely payments.

Subsections 241(c) and (d) update certain general law enforcement authorities of the Attorney General to include the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Section 242. Coordination Duties of Assistant Attorney General

Subsection 242(a) amends the authorizing statute for OJP to include the Office for Victims of Crime within the list of OJP bureaus. Subsection 242(b) allows the Assistant Attorney General to place special conditions on all grants.

Section 243. Repeal of Certain Programs

Section 243 repeals seven grant programs that have been authorized, but have largely not been funded in recent years: the Criminal Justice Facility Construction Pilot Program; the Family Support Program; the Matching Grant Program for School Security; the Local Crime Prevention Block Grant Program; the Assistance for Delinquent and At-Risk Youth Program; and the Improved Training and Technical Automation Program; the Other State and Local Aid Program.

Section 244. Elimination of Certain Notice and Hearing Requirements

Section 244 eliminates the requirement that OJP must provide notice and a hearing for grant applicants whose applications are denied. It further eliminates the opportunity for appellate review of the decisions arising from such hearings. These rights are rarely used.

Section 245. Amended Definitions for Purposes of Omnibus Crime Control and Safe Streets Act of 1968

Section 245 broadens the definition of the term ''Indian Tribe'' to allow more tribes to be treated as units of local government for purposes of OJP grants. It broadens the definition of the term ''combination'' of State and local governments to include those who jointly plan. It amends the definition of the term ''neighborhood or community-based organizations'' to clarify that it includes faith-based organizations.

Section 246. Clarification of Authority To Pay Subsistence Payments to Prisoners for Health Care Items and Services

Under current law, the Attorney General is required to pay for health care items and services for certain prisoners in the custody of the United States. In every instance, he must not pay more than the lesser of what the Medicare or Medicaid program would pay. This requires the Attorney General to expend a great deal of effort to determine that in each case. This subsection changes that to simply say that he shall not pay more than the Medicare rate. It also substitutes the Department of Homeland Security for a reference to the now defunct Immigration and Naturalization Service.

Section 247. Consolidation of Financial Management Systems of Office of Justice Programs

Section 247 requires the Assistant Attorney General of the Office of Justice Programs to make two significant financial management reforms: (1) consolidate all accounting activities of OJP into a single financial management system under the direct management of the Office of the Comptroller by September 30, 2010, and (2) consolidate all procurement activities of OJP into a single procurement system under the direct management of the Office of Administration by September 30, 2007.

The Assistant Attorney General is required to begin the consolidation of accounting activities under the Office of the Comptroller and the consolidation of procurement activities under the Office of Administration not later than October 1, 2003. The Office of Administration is to begin the consolidation of procurement operations and financial management systems into a single financial system not later than September 30, 2005.

Section 248. Authorization and Change of COPS program to single grant program

Section 248 reauthorizes the COPS program while restructuring it as one single block grant program covering all of its current purposes so local governments will need only to file one COPS application for any of these purposes.

Section 249. Enhanced Assistance for Criminal Investigations and Prosecutions by State and Local Law Enforcement Officials

Section 249 enhances assistance for criminal investigations and prosecutions by requiring the Attorney General to provide federal assistance upon request by a state, local or Indian tribe governments.

TITLE III—COMBATING MONEY LAUNDERING AND TERRORIST FINANCING ACT OF 2004

Section 301. Short Title

Section 301 authorizes that this bill may be cited as the ''Combating Money Laundering and Terrorist Financing Act of 2003''.

Section 302. Specified Activities for Money Laundering

Amends the Racketeer Influenced and Corrupt Organizations Act (RICO) to expand its scope to cover acts or threats involving burglary, embezzlement, and fraud in the purchase of securities. Modifies provisions regarding: (1) the laundering of monetary instruments to include violations of the Social Security Act relating to obtaining funds through misuse of a social security number, to grant authority to the Secretary of Homeland Security and the Commissioner of Social Security over offenses within their jurisdictions, and to cover certain informal transfers of the proceeds of specified unlawful activity; and (2) engaging in monetary transactions in property derived from specified unlawful activity to grant authority to the Secretary over offenses within his jurisdiction.

Section 303. Illegal Money Transmitting Businesses

Changes the name of a money transmitting business the operation of which is prohibited from an ''unlicensed'' to an ''illegal'' money transmitting business. Specifies that such a business shall be illegal if it fails to comply with money transmitting business registration requirements (current law), whether or not the defendant knew that the operation was required to comply with such requirements. Authorizes the Attorney General, the Secretary of the Treasury, and the Secretary of Homeland Security to investigate violations regarding such businesses.

Section 304. Assets of Persons Committing Terrorist Acts Against Foreign Countries or International Organizations

Amends the Federal criminal code to provide for civil forfeiture of the assets of individuals or entities engaging in planning or perpetrating any act of international terrorism against any international organization or foreign government.

Section 305. Money Laundering through Informal Value Transfer Systems

Section 305 amends the Federal criminal code to include as money laundering unlawful transactions where one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.

Section 306. Technical Corrections to Financing of Terrorism Statute

Section 306 amends 18 USC 2339(c) to change the definition of concealment and other minor changes.

Section 307. Miscellaneous and Technical Amendments

Section 307 amends 18 USC 982(b), 18 USC 1510(b)(3)(B) and adds technical amendments Sections 1956, 1957.

Section 308. Extension of the Money Laundering and Financial Crimes Strategy Act of 1998

Reauthorizes the Money Laundering and Financial Crimes Strategy Act of 1998 through years 2004, 2005, and 2006.

TITLE IV—PREVENTION AND RECOVERY OF MISSING CHILDREN ACT OF 2004

Section 401. Short Title

This Title may be called the ''Prevention and Recovery of Missing Children Act of 2004.''

Section 402. Findings

Section 403. Missing Child Reporting Requirements

Section 403 stops the practice of removing a missing child entry from the NCIC database when the child reaches age 18 to increase the chances for child recovery and investigative information available for other cases. It also requires that a missing child be entered into NCIC within 2 hours of receipt.

Section 404. Standards for Sex Offender Registration Programs

Section 404 requires that (1) a state register sex offenders before they are released from prison; (2) the registering agency obtain current fingerprints and a photograph (annually), as well as a DNA sample, from an offender at the time of registration; (3) registrants obtain either a driver's license or an identification card from the department of motor vehicles; (4) registration changes occur within 10 days of the changes taking effect; (5) all registered sex offenders verify their registry information every 90 days; and (6) states inform another state when a known registered person is moving into its jurisdiction. This section also creates a felony designation for the crime of non-compliance with the registration requirements.

Section 405. Effective Date

The provisions in this title will go into effect 2 years after this bill is signed into law.

TITLE V—BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 2004

Section 501. Short Title

This title may be called the ''Bulletproof Vest Partnership Grant Act of 2004.''

Section 502. Authorization of Appropriations

Amends the Omnibus Crime Control and Safe Streets Act of 1968 to extend through FY 2007 the authorization of appropriations for the Bulletproof Vest Partnership Grant Program (a matching grant program which helps State, tribal, and local jurisdictions purchase armor vests for use by law enforcement officers).

TITLE VI—PACT ACT

Section 601. Short Title

This title may be called the ''Prevent All Cigarette Trafficking Act'' or ''PACT Act.''

Section 602. Collection of State Cigarette Taxes

This section increases the ability of state, local, and tribal governments to collect excise taxes from cigarette and smokeless tobacco sales by strengthening the Jenkins Act, which requires reporting of interstate cigarette sales. Jenkins now explicitly includes cigarette and smokeless tobacco sales made via phone, Internet or mail. Delivery sellers must report interstate sales, including those to distributors, to state, local, and tribal governments, as well as list all Jenkins requirements on the bill of lading, and maintain records of all delivery sales. Delivery sales may not be made until excise tax stamps are applied. Violators of Jenkins are subject to felony prosecution and civil penalties. State, local and tribal governments, as well as tobacco manufacturers may prevent and restrain violations of Jenkins in U.S. district courts, in addition to their respective jurisdictions.

Section 603. Treatment of Cigarettes as Nonmailable Matter

This section prohibits a person from sending cigarettes and smokeless tobacco via the U.S. Postal Service in the continental United States.

Section 604. Penal Provisions Regarding Trafficking in Contraband Cigarettes

Under the amended Contraband Cigarette Trafficking Act (''CCTA''), the threshold amount of non-excise tax-paid cigarettes is lowered to 10,000. CCTA covers smokeless tobacco if the quantity exceeds 500 single-units. Monthly reports must be filed detailing transactions and inventory with the Attorney General and Secretary of Treasury, as well as with state and tribal authorities as appropriate, if monthly delivery sales exceed these contraband thresholds. Seized cigarettes and smokeless tobacco may be used for undercover law enforcement operations. State, local and tribal governments, as well as tobacco manufacturers may prevent and restrain violations of the CCTA in U.S. district courts, in addition to their respective jurisdictions.

Section 605. Compliance with Model Statute or Qualifying Statute

This section prohibits tobacco manufacturers and importers from participating in transactions occurring in states party to the Master Settlement Agreement (''MSA''), which involve cigarettes manufactured by companies that are not in compliance with the ''qualifying statute'' of the particular MSA state. These statutes require that states neutralize the cost disadvantages of the manufacturers that entered into the MSA due to their escrow payments. State attorneys general may bring actions in the United States district courts to prevent and restrain violations of this section.

Section 606. Undercover Criminal Investigations of the Bureau of Alcohol, Tobacco, Firearms and Explosives

This section grants BATFE the authority to offset expenses incurred in undercover operations by revenue obtained from the same operation. This will enhance their ability to conduct sting operations. BATFE is also empowered to inspect the records and premises of those who ship, sell, distribute, or receive in interstate commerce any quantity in excess of the contraband threshold, within a single month.

Section 607. Inspection by the Bureau of Alcohol, Tobacco, Firearms and Explosives of Records of Certain Cigarette Sellers

This section empowers the BATFE to inspect the records and premises of those who ship, sell, distribute, or receive in interstate commerce any quantity in excess of the contraband threshold, within a single month.

Section 608. Compliance with Tariff Act of 1930

Section 609. Exclusions Regarding Indian Tribes and Tribal Matters

Section 610. Effective Date

The new authority granted to the BATFE is effective immediately. All other changes are effective 90 days after enactment.

TITLE VII—CREATE ACT

Section 701. Short Title

Section 701 authorizes that this bill may be cited as the ''Cooperative Research and Technology Enhancement (CREATE) Act of 2004.''

Section 702. Collaborative Efforts on Claimed Inventions

Section 702 amends Federal patent and trademark law to deem subject matter developed by another person and a claimed invention to have been owned by the same person or subject to an obligation of assignment to the same person, for purposes of provisions that treat inventions of a common owner similarly to inventions made by a single person, if: (1) the claimed invention was made by or on behalf of parties to a joint research agreement (agreement) that was in effect on or before the date the claimed invention was made; (2) the claimed invention was made as a result of activities undertaken within the scope of the agreement; and (3) the application for patent for the claimed invention discloses, or is amended to disclose, the names of the parties to the agreement.

Section 703. Effective Date

Section 703 applies the CREATE Act to any patents issued after its enactment and does not apply to any pending action before the courts or the Patent and Trademark Office.

TITLE VIII—PROTECTING INTELLECTUAL RIGHTS AGAINST THEFT AND EXPROPRIATION ACT OF 2004

Section 801. Short Title

Section 801 authorizes that this bill may be cited as the ''Protecting Intellectual Rights Against Theft and Expropriation Act of 2004''.

Section 802. Authorization of Civil Copyright Enforcement by Attorney General

Section 802 amends Federal copyright law to authorize the Attorney General (AG) to: (1) commence a civil action against any person who engages in conduct constituting copyright infringement; (2) collect damages and profits resulting from such infringement; and (3) collect

Section 803. Authorization of Funding for Training and Pilot Program

Section 803 directs the Attorney General to: (1) develop a program to ensure effective implementation and use of the authority for civil enforcement of the copyright laws, including training programs for qualified personnel from the Department of Justice and United States Attorneys Offices; and (2) report annually to Congress on the use of such enforcement authority and progress made in implementing the training programs.

Authorizes appropriations for FY 2005.

TITLE IX—KOBY MANDELL ACT OF 2004

Section 901. Short Title

Section 902. Definitions

Section 903. Establishment of an Office of Justice for Victims of Overseas Terrorism in the Department of Justice

Section 903 creates within the DOJ an Office of Justice for Victims of Overseas Terrorism which will assume the responsibility for administration of the Rewards for Justice Program and its website. These offices will offer rewards to capture all terrorists involved in harming American citizens overseas as well as other related services including sending US officials to funerals of American victims of terrorism overseas.

Included in this section are reporting requirements to Congress and monitoring of actions by governments and regimes pertaining to terrorists who have harmed American citizens. This section also requires the Office to initiate negotiations to secure compensation for American citizens or their families who were harmed by organizations who claim responsibility for the acts of terrorism.

The Office will also be required to monitor the incarceration abroad of terrorists who have harmed American citizens overseas to ensure their incarceration is similar to that condition of incarceration in the United States. As well, this section requires that all terrorists who have harmed Americans overseas are treated by the US government as persona non grata.

Section 904. Authorization of Appropriations

Section 904 authorizes for 2005–2007 such sums as may be necessary to carry out this title.

TITLE X—SENIOR SAFETY ACT OF 2004

Section 1001. Short Title

The title may be cited as the ''Seniors Safety Act of 2004.''

Section 1002. Findings and Purposes

This section enumerates 14 findings on the incidence of crimes against seniors, the large percentages of seniors who can expect to spend time in nursing homes, the amount of Federal money spent on nursing home care and the estimated losses due to fraud and abuse in the health care industry.

The purposes of the Act are to enhance safeguards for pension plans and health benefit programs, prevent and deter criminal activity that results in economic and physical harm to seniors, and ensure appropriate restitution.

Section 1003. Definitions

Definitions are provided for the following terms: (1) ''Crime'' is defined as any criminal offense under Federal or State law; and (2) ''Senior'' is defined as an individual who is older than 55.

Subtitle A—Combating Crimes Against Seniors

Section 1011. Enhanced Sentencing Penalties Based on Age of Victim

Directive to the United States Sentencing Commission. The U.S. Sentencing Commission is directed to review and, if appropriate, amend the sentencing guidelines applicable to the age or a victim.

Section 1012. Study and Report on Health Care Fraud Sentences

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION. The U.S. Sentencing Commission is directed to review and, if appropriate, amend the sentencing guidelines applicable to health care fraud offenses.

(b) REQUIREMENTS. During its review, the Sentencing Commission shall: ensure that the guidelines reflect the serious harms associated with health care fraud and the need for law enforcement to prevent such fraud;

consider enhanced penalties for persons convicted of health care fraud; consult with representatives of industry, judiciary, law enforcement, and victim groups; account for mitigating circumstances; assure reasonable consistency with other relevant directives and guidelines; make any necessary conforming changes; and assure that the guidelines adequately meet the purposes of sentencing.

(c) REPORT. The Sentencing Commission shall report the results of the review required under (a) and include any recommendations for retention or modification of the current penalty levels for health care fraud offenses, by December 31, 2004.

Section 1013. Increased Penalties for Fraud Resulting in Serious Injury or Death

This section increases the penalties under the mail fraud statute, 18 U.S.C. §1341, and the wire fraud statute, 18 U.S.C. §1343, for fraudulent schemes that result in serious injury or death. Existing law provides such an enhancement for a narrow class of health care fraud schemes (see 18 U.S.C. 1347). This provision would extend this penalty enhancement to other forms of fraud under the mail and wire fraud statutes that result in death or serious injury. The maximum penalty if serious bodily harm occurred would be up to twenty years; if a death occurred, the maximum penalty would be a life sentence.

Section 1014. Safeguarding Pension Plans From Fraud and Theft

(a) IN GENERAL. This section would add new section 1351 to title 18, United States Code.

§1351: Fraud in Relation to Retirement Arrangements.

(a) This section defines retirement arrangements and provides an exception for plans established by the Employee Retirement Income Security Act (ERISA).

(b) This section punishes, with up to ten years' imprisonment, the act of defrauding retirement arrangements, or obtaining by means of false or fraudulent pretenses money or property of any retirement arrangement. Retirement arrangements would include employee pension benefit plans under the Employee Retirement Income Security Act (ERISA), qualified retirement plans under section 4974(c) of the Internal Revenue Code (IRC), medical savings accounts under section 220 of the IRC, and funds established within the Thrift Savings Fund. This provision is modeled on existing statutes punishing bank fraud (see 18 U.S.C. §1344) and health care fraud (see 18 U.S.C. §1347). Any government plan defined under section 3(32) of title I of the ERISA, except funds established by the Federal Retirement Thrift Investment Board, is exempt from this section.

(c) The Attorney General is given authority to investigate offenses under the new section, but this authority expressly does not preclude other appropriate Federal agencies, including the Secretary of Labor, from investigating violations of ERISA.

(b) CONFORMING AMENDMENT. The table of sections for chapter 63 of title 18 United States Code, is modified to list new section "1351. Fraud in relation to retirement arrangements."

Section 1015. Additional Civil Penalties for Defrauding Pension Plans

(a) IN GENERAL. This section would authorize the Attorney General to bring a civil action for a violation, or conspiracy to violate, new section 18 U.S.C. §1351, relating to retirement fraud. Proof of such a violation established by a preponderance of the evidence would subject the violator to a civil penalty of the greater of the amount of pecuniary gain to the offender, the pecuniary loss to the victim, or up to $50,000 in the case of an individual, or $100,000 for an organization. Imposition of this civil penalty has no effect on other possible remedies.

(b) EXCEPTION. No civil penalties would be imposed for conduct involving an employee pension plan subject to penalties under ERISA, 29 U.S.C. §1132.

(c) DETERMINATION OF PENALTY AMOUNT. In determining the amount of the penalty, the court is authorized to consider the effect of the penalty on the violator's ability to restore all losses to the victims and to pay other important tax or criminal penalties.

Section 1016. Punishing Bribery and Graft in Connection with Employee Benefit Plans

This section would amend section 1954 of title 18, United States Code, by changing the title to "Bribery and graft in connection with employee benefit plans," and increasing the maximum penalty for bribery and graft in regard to the operation of an employee benefit plan from 3 to 5 years imprisonment. This section also broadens existing law under section 1954 to cover corrupt attempts to give or accept bribery or graft payments, and to proscribe bribery or graft payments to persons exercising de facto influence or control over employee benefit plans. Finally, this amendment clarifies that a violation under section 1954 requires a showing of corrupt intent to influence the actions of the recipient of the bribe or graft.

Subtitle B—Preventing Telemarketing Fraud

Section 1021. Centralized Complaint and Consumer Education Service for Victims of Telemarketing Fraud

(a) CENTRALIZED SERVICE. This section directs the Commissioner of the Federal Trade Commission to log the receipt of calls complaining about telemarketing fraud and provide information on telemarketing fraud to such individuals. The FTC is also authorized to provide civil or criminal law enforcement information about specific companies.

(b) FRAUD CONVICTION DATA. The Attorney General is directed to provide information about corporations and companies that are the subject of civil or criminal law enforcement action for telemarketing fraud, under Federal and state law, to the FTC in electronic format, so that the FTC can enter the information into a database maintained in accordance with section (a).

(c) AUTHORIZATION OF APPROPRIATIONS. Authorization is provided for such sums as are necessary to carry out the section.

Section 1022. Blocking of Telemarketing Scams

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES. Section 2325 of title 18, United States Code, is amended by replacing the term "telephone calls" with "wire communication utilizing a telephone service" to clarify that telemarketing fraud schemes executed using cellular telephone services are subject to the enhanced penalties for such fraud under 18 U.S.C. §2326.

(b) BLOCKING OR TERMINATION OF TELEPHONE SERVICE ASSOCIATED WITH TELEMARKETING FRAUD. This section adds new section 2328 to title 18, United States Code, to authorize the termination of telephone service used to carry on telemarketing fraud, and is similar to the legal authority provided under 18 U.S.C. §1084(d), regarding termination of telephone service used to engage in illegal gambling. The new section 2328 requires telephone companies, upon notification in writing from the Department of Justice that a particular phone number is being used to engage in fraudulent telemarketing or other fraudulent conduct, and after notice to the customer, to terminate the subscriber's telephone service. The common carrier is exempt from civil and criminal penalties for any actions taken in compliance with any notice received from the Justice Department under this section. Persons affected by termination may seek an appropriate determination in Federal court that the service should not be discontinued or removed, and the court may direct the Department of Justice to present evidence supporting the notification of termination. Definitions are provided for "wire communication facility" and "reasonable notice to the subscriber."

TITLE XI—FEDERAL PROSECUTORS RETIREMENT BENEFIT EQUITY ACT OF 2004

Section 1101. Short Title

This title may be called the "Federal Prosecutors Retirement Benefit Equity Act."

Section 1102. Retirement Treatment of Federal Prosecutors

Amends the definition of law enforcement officer to include prosecutors for retirement purposes.

Section 1103. Provisions Relating to Incumbents

Defines "federal prosecutor" to include assistant United States Attorneys and attorneys at the Department of Justice designated by the Attorney General under the conditions set out in this title. The change takes effect upon enactment of the bill. This section also sets a time limit for the attorneys to elect to opt out.

Section 1104. Department of Justice Administrative Actions

Directs the Attorney General to consult with the Office of Personnel Management on this title and make regulations.

TITLE XII—ANTI-ATROCITY ALIEN DEPORTATION ACT OF 2004

Section 1201. Short Title

This title may be cited as the "Anti-Atrocity Alien Deportation Act of 2004."

Section 1202. Inadmissibility and Deportability of Aliens Who Have Committed Acts of Torture or Extrajudicial Killing Abroad

Currently, the Immigration and Nationality Act (INA) provides that (i) participants in Nazi persecutions during the time period from March 23, 1933 to May 8, 1945, and (ii) aliens who engaged in genocide, are inadmissible to the United States. See 8 U.S.C. §1182(a)(3)(E)(i) and (ii). Current law also provides that aliens who have participated in Nazi persecutions or engaged in genocide are deportable. See §1227(a)(4)(D). The bill would amend these sections of the INA by expanding the grounds for inadmissibility and deportation to cover aliens who have committed, ordered, incited, assisted, or otherwise participated in the commission of acts of torture or extrajudicial killing abroad and clarify and expand the scope of the genocide bar.

Subsection (a) would first amend the definition of "genocide" in clause (ii) of section 212(a)(3) of the INA, 8 U.S.C. 1182(a)(3)(E)(ii). Currently, the ground of inadmissibility relating to genocide refers to the definition in the Convention on the Prevention and Punishment of the Crime of Genocide. Article III of that Convention punishes genocide, the conspiracy to commit genocide, direct and public incitement to commit genocide, attempts to commit genocide, and complicity in genocide. The bill would modify the definition to refer instead to the "genocide" definition in section 1091 (a) of title 18, United States Code, which was adopted to implement United States obligations under the Convention and also prohibits attempts and conspiracies to commit genocide.

Specifically, section 1091 (a) defines genocide as "whoever, whether in time of peace or in time of war, . . . with the specific intent to destroy, in whole or in substantial

part, a national, ethnic, racial or religious group as such: (1) kills members of that group; (2) causes serious bodily injury to members of that group; (3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques; (4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part; (5) imposes measures intended to prevent births within the group; or (6) transfers by force children of the group to another group.'' This definition includes genocide by public or private individuals in times of peace or war. While the federal criminal statute is limited to those offenses committed within the United States or offenders who are U.S. nationals, see 18 U.S.C. 1091(d), the grounds for inadmissibility in the bill would apply to such offenses committed outside the United States that would otherwise be a crime if committed within the United States or by a U.S. national.

In addition, the bill would broaden the reach of the inadmissibility bar to apply not only to those who ''engaged in genocide,'' as in current law, but also to cover any alien who has ordered, incited, assisted or otherwise participated in genocide abroad. This broader scope will ensure that the genocide provision addresses a more appropriate range of levels of complicity.

Second, subsection (a) would add a new clause to 8 U.S.C. §1182(a)(3)(E) that would trigger operation of the inadmissibility ground if an alien has ''committed, ordered, incited, assisted, or otherwise participated in'' acts of torture, as defined in section 2430 of title 18, United States Code, or extrajudicial killings, as defined in section 3(a) the Torture Victim Protection Act. The statutory language—''committed, ordered, incited, assisted, or otherwise participated in''—is intended to reach the behavior of persons directly or personally associated with the covered acts, including those with command responsibility. Command responsibility holds a commander responsible for unlawful acts when (1) the forces who committed the abuses were subordinates of the commander (i.e., the forces were under his control either as a matter of law or as a matter of fact); (2) the commander knew, or, in light of the circumstances at the time, should have known, that subordinates had committed, were committing, or were about to commit unlawful acts; and (3) the commander failed to prove that he had taken the necessary and reasonable measures to (a) prevent or stop subordinates from committing such acts, or (b) investigate the acts committed by subordinates in a genuine effort to punish the perpetrators. Attempts and conspiracies to commit these crimes are encompassed in the ''otherwise participated in'' language. This language addresses an appropriate range of levels of complicity for which aliens should be held accountable, and has been the subject of extensive judicial interpretation and construction. See *Fedorenko* v. *United States*, 449 U.S. 490, 514 (1981); *Kalejs* v.*INS*, 10 F.3d 441, 444 (7th Cir. 1993); *U.S.* v. *Schmidt*, 923 F. 2d 1253, 1257–59 (7th Cir. 1991); *Kulle* v. *INS*, 825 F. 2d 1188, 1192 (7th Cir. 1987).

The definitions of ''torture'' and ''extrajudicial killing'' are contained in the Torture Victim Protection Act, which served as the implementing legislation when the United States joined the United Nations' ''Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.'' This Convention entered into force with respect to the United States on November 20, 1992 and imposes an affirmative duty on the United States to prosecute torturers within its jurisdiction. The Torture Victim Protection Act provides both criminal liability and civil liability for persons who, acting outside the United States and under actual or apparent authority, or color of law, of any foreign nation, commit torture or extrajudicial killing.

The criminal provision passed as part of the Torture Victim Protection Act defines ''torture'' to mean ''an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.'' 18 U.S.C. §2340(1). ''Severe mental pain or suffering'' is further defined to mean the ''prolonged mental harm caused by or resulting from (A) the intentional infliction or threatened infliction of severe physical pain or suffering; (B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and (C) the threat of imminent death; or (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.'' 18 U.S.C. §2340(2).

The bill also incorporates the definition of ''extrajudicial killing'' from section 3(a) of the Torture Victim Protection Act. This law establishes civil liability for wrongful death against any person ''who, under actual or apparent authority, or color of law, of any foreign nation . . . subjects an individual to extrajudicial killing,'' which is defined to mean ''a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.''

Both definitions of ''torture'' and ''extrajudicial killing'' require that the alien be acting under color of law. A criminal conviction, criminal charge or a confession are not required for an alien to be inadmissible or removable under the new grounds added in this subsection of the bill.

The final paragraph in subsection (a) would modify the subparagraph heading to clarify the expansion of the grounds for in admissibility from ''participation in Nazi persecution or genocide'' to cover ''torture or extrajudicial killing.''

Subsection (b) would amend section 237(a)(4)(D) of the INA, 8 U.S.C. §1227(a)(4)(D), which enumerates grounds for deporting aliens who have been admitted into or are present in the United States. The same conduct that would constitute a basis of inadmissibility under subsection (a) is a ground for deportability under this subsection of the bill. Under current law, assisting in Nazi persecution and engaging in genocide are already grounds for deportation. The bill would provide that aliens who have committed any act of torture or extrajudicial killing would also be subject to deportation. In any deportation proceeding, the burden would remain on the government to prove by clear and convincing evidence that the alien's conduct brings the alien within a particular ground of deportation.

Subsection (c) regarding the ''effective date'' clearly states that these provisions apply to acts committed before, on, or after the date this legislation is enacted. These provisions apply to all cases after enactment, even where the acts in question occurred or where adjudication procedures within the Department of Homeland Security (DHS) or the Executive Office of Immigration Review were initiated prior to the time of enactment.

Section 1203. Inadmissibilty and Deportability of Foreign Government Officials Who Have Committed Particularly Severe Violations of Religious Freedom

This section of the bill would amend section 212(a)(2)(G) of the INA, 8 U.S.C. §1182(a)(2)(G), which was added as part of the International Religious Freedom Act of 1998 (IFRA), to expand the grounds for inadmissibility and deportability of aliens who commit particularly severe violations of religious freedom. Current law bars the admission of an individual who, while serving as a foreign government official, was responsible for or directly carried out particularly severe violations of religious freedom within the last 24 months. 8 U.S.C. §1182(c)(2)(G). The existing provision also bars from admission the individual's spouse and children, if any. ''Particularly severe violations of religious freedom'' is defined in section 3 of IFRA to mean systematic, ongoing, egregious violation of religious freedom, including violations such as (A) torture or cruel, inhuman, or degrading treatment or punishment; (B) prolonged detention without charges; (C) causing the disappearance of persons or clandestine detention of those persons; or (D) other flagrant denial of the right to life, liberty, or the security of persons. While IRFA contains numerous provisions to promote religious freedom and prevent violations of religious freedom throughout the world, including a wide range of diplomatic sanctions and other formal expressions of disapproval, section 212 (a)(2)(G) is the only provision which specifically targets individual abusers.

Subsection (a) would delete the 24–month restriction in section 212 (a)(2)(G) since it limits the accountability, for purposes of admission, to a two-year period. This limitation is not consistent with the strong stance of the United States to promote religious freedom throughout the world. Individuals who have committed particularly severe violations of religious freedom should be held accountable for their actions and should not be admissible to the United States regardless of when the conduct occurred.

In addition, this subsection would amend the law to remove the current bar to admission for the spouse or children of a foreign government official who has been involved in particularly severe violations of religious freedom. The bar of inadmissibility is a serious sanction that should not apply to individuals because of familial relationships that are not within an individual's control. None of the other grounds relating to serious human rights abuse prevent the spouse or child of an abuser from entering or remaining lawfully in the United States. Moreover, the purpose of these amendments is to make those who have participated in atrocities accountable for their actions. That purpose is not served by holding the family members of such individuals accountable for the offensive conduct over which they had no control.

Subsection (b) would amend section 237(a)(4) of the INA, 8 U.S.C. §1227(a)(4), which enumerates grounds for deporting aliens who have been admitted into or are present in the United States, to add a new clause (E), which provides for the deportation of aliens described in subsection (a) of the bill.

The bill does not change the effective date for this provision set forth in the original IFRA, which applies the operation of the amendment to aliens ''seeking to enter the United States on or after the date of the enactment of this Act.''

Section 1204. Waiver of Inadmissibility

Under current law, most aliens who are otherwise inadmissible may receive a waiver

under section 212(d)(3) of the INA to enter the nation as a nonimmigrant, where the Secretary of State recommends it and the Attorney General approves. Participants in Nazi persecutions or genocide, however, are not eligible for such a waiver. Our bill retains that prohibition. It does allow for the possibility, however, of waivers for those who commit acts of torture or extrajudicial killings.

Section 1205. Bar to Good Moral Character, Asylum and Refugee Status, and Withholding of Removal for Aliens Who Have Committed Acts of Torture, Extrajudicial Killings, or Severe Violations of Religious Freedom

This section of the bill would amend section 101 (f) of the INA, 8 U.S.C. §1101(f), which defines ''good moral character,'' to make clear that aliens who have committed torture, extrajudicial killing, or severe violation of religious freedom abroad do not qualify. Good moral character is a prerequisite for certain forms of immigration relief, including naturalization, cancellation of removal for nonpermanent residents, and voluntary departure at the conclusion of removal proceedings. Aliens who have committed torture or extrajudicial killing, or severe violations of religious freedom abroad cannot establish good moral character. Accordingly, this amendment prevents aliens covered by the amendments made in sections 2 and 3 of the bill from becoming United States citizens or benefiting from cancellation of removal or voluntary departure. Absent such an amendment there is no statutory bar to naturalization for aliens covered by the proposed new grounds for inadmissibility and deportation.

It would also make aliens who are inadmissible under section 212(a)(3)(E) of the INA, 8 U.S.C. 1182(a)(3)(E), ineligible for asylum, refugee status, or withholding of removal.

Section 1206. Establishment of the Office of Special Investigations

Attorney General Civiletti established OSI in 1979 within the Criminal Division of the Department of Justice, consolidating within it all ''investigative and litigation activities involving individuals, who prior to and during World War II, under the supervision of or in association with the Nazi government of Germany, its allies, and other affiliatated [sic] governments, are alleged to have ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.'' (Att'y Gen. Order No. 85179). The OSI's mission continues to be limited by that Attorney General Order.

Subsection (a) would first amend the INA, 8 U.S.C. §1103, by directing the Attorney General to establish an Office of Special Investigations within the Department of Justice with authorization to denaturalize any alien who has participated in Nazi persecution, genocide, torture or extrajudicial killing abroad. This would not only provide statutory authorization for OSI, but also expand OSI's current authorized mission beyond Nazi war criminals.

The second part of this subsection would require the Attorney General to consult with the Secretary of the Department of Homeland Security before making decisions about prosecution or extradition of the aliens covered by this bill. The third part of this subsection sets forth specific considerations in determining the appropriate legal action to take against an alien who has participated in Nazi persecution, genocide, torture or extrajudicial killing abroad. Significantly, in order to fulfill the United States' obligation under the ''Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment'' to hold accountable torturers found in this country, the bill expressly directs the Department of Justice to consider the availability of prosecution under United States laws for any conduct that forms the basis for removal and denaturalization. In addition, the Department is directed to consider extradition to foreign jurisdictions that are prepared to undertake such a prosecution. Statutory and regulatory provisions to implement Article 3 of the Convention Against Torture, which prohibits the removal of any person to a country where he or she would be tortured, must also be part of this consideration.

Subsection (b) authorizes additional funds for these expanded duties to ensure that OSI fulfills its continuing obligations regarding Nazi war criminals.

Section 1207. Reports on Implementation of the Act

This section of the bill would direct the Attorney General, in consultation with the Homeland Security Secretary, to report within six months on implementation of the Act, including procedures for referral of matters to OSI, any revisions made to INS forms to reflect amendments made by the bill, and the procedures developed, with adequate due process protection, to obtain sufficient evidence and determine whether an alien is deemed inadmissible under the bill.

It also requires the Attorney General and the DHS Secretary to report annually on the number of criminal investigations and prosecutions undertaken pursuant to the Act, the number of persons removed from or denied admission to the United States pursuant to the Act, and the nationality of those persons.

TITLE XIII—PROMISE ACT

Section 1301. Short Title

This title may be called the ''Parental Responsibility Obligations Met through Immigration System Enforcement Act'' or ''PROMISE Act''.

Section 1302. Aliens Ineligible to Receive Visas and Excluded from Admission for Non-Payment of Child Support

Section 1302 amends INA §212(a) so that aliens who are in violation of court order to pay child support are inadmissible. This section defines child support order to include orders from a court in the United States as well as any foreign country, if a reciprocity agreement exists between that country and the United States or any individual State. The applicant for admission may become admissible by satisfying the outstanding child support debt, or by entering into an approved payment arrangement.

Section 1303. Authority to Parole Aliens Excluded from Admission for Non-Payment of Child Support

Section 1303 allows for the alien's physical return to the United States in the event that it is crucial to his ability to pay child support, the Secretary of DHS may parole the alien, but the alien will be subject to removal until he meets his support obligations.

Section 1304. Effect of Non-Payment of Child Support on Establishment of Good Moral Character

Section 1304 amends INA §101(f) so that an alien who is not in compliance with a court order to pay child support does not possess good moral character. This provision includes agreements in the United States and in any foreign country, if a reciprocity agreement exists between that country and the United States or any individual State. The alien would be unable to obtain certain immigration benefits, the most important of which is U.S. citizenship, without being able to demonstrate statutory good moral character.

Section 1305. Authorization to Serve Legal Process in Child Support Cases on Certain Visa Applicants and Arriving Aliens

Section 1305 authorizes immigration officers to serve on any alien seeking admission to the United States legal process with respect to any action to enforce or to establish a legal obligation of an individual to pay child support.

Section 1306. Authorization to Obtain Information on Child Support Payments by Aliens

Section 1306 grants the Secretaries of State and Homeland Security as well as the Attorney General access to child support payment information of an alien seeking an immigration benefit.

Section 1307. Effective Date

The provisions of this title shall be effective 90 days after enactment.

TITLE XIV—FALLEN HEROES OF 9/11 ACT

Section 1401. Short Title

Section 1401 authorizes that this bill may be cited as the ''Fallen Heroes of 9/11 Act.''

Section 1402. Congressional Findings

Section 1403. Fallen Heroes of 9/11 Congressional Medals

Authorizes the President to present to the personal representative or next of kin of each individual who died on or after September 11, 2001, as a direct result of the act of terrorism within the United States on that date, a Fallen Heroes of 9/11 Congressional Medal in recognition of their sacrifice and to honor their deaths.

Section 1404. Duplicate Medals

Directs the Secretary of the Treasury to strike: (1) three medals to honor victims of the attack at the World Trade Center (WTC), victims aboard United Airlines Flight 93 that crashed in Pennsylvania, and victims at the Pentagon; and (2) duplicate medals for presentation to each precinct house, firehouse, emergency response station, or other duty station or place of employment to which officers, emergency workers, and other employees of the U.S. Government and of State and local government agencies (including the Port Authority of New York and New Jersey) and others who responded to and perished as a direct result of the WTC attacks were assigned on September 11, 2001.

Section 1405. Establishment of Lists of Recipients

Directs the Secretary of Treasury to establish a list of individuals eligible under section 1604 and add individuals as they subsequently become eligible.

Section 1406. Sales to the Public to Defray Costs

Directs the Secretary of Treasury to strike and sell duplicate medals to the public to defray the costs of production.

Section 1407. National Medals

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United 11 States Code.

TITLE XV—MISCELLANEOUS PROVISIONS

Section 1501. Technical Amendments Relating to Public Law 107–56

Section 1501 makes a series of technical amendments to Public Law No. 107–56, the USA PATRIOT Act.

Section 1502. Miscellaneous Technical Amendments

Section 1502 makes a series of technical amendments to Title 18 and Title 28, and it also repeals a duplicative authorization of a sexual abuse prevention program for runaway children which has recently been reauthorized in another statute. Sec. 117(b) of Pub. L. No. 108–96.

Section 1503. Minor Substantive Amendment Relating to Contents of FBI Annual Report

Section 1503 adds a requirement that the FBI include the number of personnel receiving danger pay in its annual report.

Section 1504. Use of Federal Training Facilities

Section 1504 is intended to ensure that the Justice Department uses the most cost-effective training and meeting facilities for its employees. For any predominantly internal training subsection (a) requires the Justice Department to use only a facility that does not require a payment to a private entity for the use of such facility, unless specifically authorized in writing by the Attorney General. Subsection (b) requires the Attorney General to prepare an annual report to the Chairmen and Ranking Members of the House and Senate Judiciary Committees that details each training requiring authorization under subsection (a). The report must include an explanation of why the facility was chosen and a breakdown of any expenditures incurred in excess of the cost of conducting the training at a facility that did not require such authorization.

Section 1505. Technical Correction Relating to Definition Used in ''Terrorism Transcending National Boundaries'' Statute

Makes technical changes to 18 USC 1958.

Section 1506. Increased Penalties and Expanded Jurisdiction for Sexual Abuse Offenses in Correctional Facilities

Section 1506 increases the penalties for sexual abuse within federal correction facilities and those who are held by the Bureau of Prisons.

Section 1507. Expanded Jurisdiction for Contraband Offenses in Correctional Facilities

Section 1507 expands the jurisdiction for contraband offenses in correctional facilities to include those in the custody of or in a facility under the control of the Attorney General and the Bureau of Prisons.

Section 1508. Magistrate Judge's Authority To Continue Preliminary Hearing

Amends 18 USC 3060(c) to include a provision to allow a magistrate judge to extend a preliminary hearing without the consent of the accused after a showing of extraordinary circumstances.

Section 1509. Boys and Girls Clubs of America

Section 1509 reauthorizes the Boys and Girls Club of America through 2010 and increases the minimum number of clubs that must exist nationwide.

Section 1510. Authority of the Inspectors General

Section 1510 amends the Crime Control Act of 1990 to allow Inspectors General to provide assistance to the National Center for Missing and Exploited Children.

Section 1511. Foreign Student Visas

This section would allow foreign students participating in ''distance learning'' programs at U.S. colleges and universities to enter the United States for up to 30 days on an ''F'' visa, in order to pursue their studies. Such aliens would be ineligible to change their nonimmigrant classification while in the United States.

Section 1512. Pre-Release Custody of Prisoners

This provision corrects an anomaly that developed in the law that prevents the BOP from exercising their previous ability to place convicts in community correctional facilities for a small part of the final portion of their sentences, so as to facilitate a smoother transition back into society.

Section 1513. FBI Translator Reporting Requirement

Section 1513 amends section 205 of the USA PATRIOT Act regarding an important reporting requirement by the Attorney General to the Senate and House Judiciary Committees about (1) the number of translators employed by the FBI, (2) legal and practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis, and (3) the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs. This section clarifies the deadline for the report, makes such reporting an annual requirement and expands the reporting requirement to include translators contracted by the government.

Section 1514. Amendment to Victims of Child Abuse Act

Section 1514 provides specific guidance on what information is required to be reported to the CyberTipline to include information on the content and images of the apparent violation, the Internet Protocol Address, the date and time associated with the violation, and specific contact information for the sender. In 1999, Congress established a statutory ''duty to report'' evidence of apparent violations of child pornography laws by Internet Service Providers (ISPs) to the CyberTipline which is operated by the National Center for Missing & Exploited Children (NCMEC).

Section 1515. Development of an Information System Interstate Compact for Adult Offender Supervision

This section supports the development of an information sharing system between states to support the exchange of information on offenders seeking and completing transfer from one state to another through the Interstate Compact for Adult Offender Supervision. This system will (1) establish a system of uniform data collection; (2) allow instant and real time access to information on active criminal cases by criminal justice officials; (3) provide regular reporting of Compact activities to heads of state councils, state executive, judicial and legislative leaders and criminal justice administrators; and (4) will be designed to integrate with current and future national, state, and local information systems.

TITLE XVI—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION BOARD

Section 1601. Short Title

Section 1601 sets forth the short title of Title XVII, the ''National Film Preservation Act of 2004.''

Section 1602. Reauthorization and Amendment

Section 1602 generally reauthorizes the National Film Preservation Board and directs the Librarian of Congress to continue the National Film Registry, established and maintained under the National Film Preservation Acts of 1988, 1992 and 1996, to maintain and preserve films that are culturally, historically, or aesthetically significant.

Section 1602(a) clarifies that the National Film Registry seal may be used with all formats of Registry films (e.g., film, video, DVD), inserts language regarding copyright ownership of Registry films that is consistent with a similar provision under the Sound Recording Preservation Act of 2000 [P.L. 106–474]; and sets forth, among current duties and powers of the Librarian under this title, new duties, parallel to those under the Sound Recording Preservation Act, to make registry films more broadly accessible for research and educational purposes, to review the comprehensive national plan developed under the National Film Preservation Act of 1992 and amend it to the extent necessary to ensure that it addresses technological advances in film preservation and storage, and to undertake initiatives to ensure preservation of the nation's moving image heritage, in concert with efforts of the National Audio-Visual Conservation Center (NAVCC) of the Library of Congress and other organizations.

Section 1602(b) amends the National Film Preservation Board to increase Board membership from 20 to 22 members, and amends the provision governing reimbursement of expenses so that it is consistent with the corresponding provision of the Sound Recording Preservation Act of 2000. The two new members are at-large members appointed by the Librarian.

Section 1602(c) incorporates parallel language from the Sound Recording Preservation Act of 2000, requiring the Librarian to utilize the NAVCC to ensure proper storage, preservation and dissemination of Registry films.

Section 1602(d) clarifies that the National Film Registry seal may be used with all formats of Registry films (e.g., film, video, DVD).

Section 1602(e) extends the authorization of the National Film Preservation Act for 10 years from the effective date of this Act, by striking the 7-year authorization period under the 1996 Act and substituting a 17-year period, dating from the 1996 Act effective date.

TITLE XVII—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION FOUNDATION

Section 1701. Short Title

Section 1701 sets forth the short title of Title XV111, the ''National Film Preservation Foundation Reauthorization Act of 2004.''

Section 1702. Reauthorization and Amendment

Section 1702(a) increases the Foundation's Board of Directors from nine to twelve, and allowing Board members to serve an unlimited number of terms.

Section 1702(b) and (c) permit the Board to incorporate the foundation in any location, rather than only in the District of Columbia.

Section 1702(d) increases the authorized appropriations level for federal matching funds for the Foundation from $250,000 per year to: $500,000 in fiscal years 2004 and 2005, and $1 million for fiscal years 2006 through 2013.

TITLE XVII—DREAM ACT

Section 1801. Short Title

This title may be called the ''Development, Relief, and Education for Alien Minors Act.''

Section 1802. Definition of an Institute of Higher Education

This section explains that ''institution of higher education'' is defined by the Higher Education Act of 1965.

Section 1803. Restoration of State Option To Determine Residency for the Purposes of Higher Education Benefits

Section 1803 repeals IIRIRA §505, 8 U.S.C. §1623. Each state is free to determine whom it deems a resident for the purpose of determining in-state tuition. The DREAM Act does not compel states to offer in-state tuition to undocumented aliens, nor does it prevent states from offering in-state tuition to anyone else.

Section 1804. Cancellation of Removal and Adjustment of Status of Certain Long-Term Residents Who Entered the United States as Children

Section 1804 provides that applicants may qualify for an initial conditional period of six years during which they can earn permanent resident status if they entered the United States at least five years prior to enactment, were under 16 years of age at the time of entry and are not inadmissible or deportable for specifically enumerated

grounds. There is a limited waiver only applicable for grounds of inadmissibility under Immigration and Nationality Act (INA) §212(a)(6) or deportability under INA §237(a)(1), (3), and (6). The applicant must also have graduated from high school, obtained a GED, or be admitted to an institution of higher learning as defined in 20 U.S.C. §1001. Additionally, the secondary and higher education institutions must be located within the United States. Persons previously ordered deported are not eligible for adjustment of status under this Act. Exceptions are made for those who remain within the United States with the U.S. government's consent or who received the deportation order while under the age of sixteen. This section also contains a physical presence requirement that the applicant must not have been out of the United States for more than ninety days in one visit, or one hundred and eighty days in the aggregate during the five-year period. There is a possible waiver of this requirement if the applicant shows exceptional circumstances no less compelling than serious illness to self, or death or serious illness to an immediate family member.

Section 1805. Conditional Permanent Residence Status

Section 1805 provides the ways through which conditional residents, after proving themselves worthy after six years, may become permanent residents. The ways are to earn a degree from an institution of higher education or to complete two years in a bachelor's or higher program, or to serve honorably in the military for at least two years. The applicant may obtain a waiver for these requirements but only at the discretion of the Secretary of Homeland Security or the Attorney General and only if applicant demonstrates ''exceptional and extreme unusual hardship.'' In addition, the applicant must maintain a clean record, meaning no crime or other misdeed that would render the applicant deportable or inadmissible. The alien cannot be a public charge during the six-year period. The applicant also must maintain continuous residence, as defined by this act, in the United States. If the applicant successfully completes the enumerated requirements, the six-year conditional period also satisfies the residency requirements for naturalization, subject to the limitations set forth in section 316 of the Immigration and Nationality Act.

Section 1806. Retroactive Benefits Under this Act

Section 1806 provides that if at the time of enactment an alien has already satisfied all requirements under sections 1804 and 1805 (meaning that the alien has already ''passed the test'' and has proven himself or herself worthy of the DREAM Act benefits) then that alien can adjust to permanent resident status without going to school or serving in the military again. Those who benefit from this ''grandfather'' clause must undergo the six-year conditional period and comply with all other requirements.

Section 1807. Exclusive Jurisdiction

Section 1807 provides that the Secretary of Homeland Security has jurisdiction to adjudicate affirmative applications for benefits, but the jurisdiction transfers to the EOIR under the DOJ when the applicant is in removal proceedings. The DREAM Act benefits will be available defensively to those in proceedings. Children 12 years of age or older who satisfy all other requirements of this act but who are still enrolled full time in school shall be granted a stay of proceedings by the EOIR. To the extent permissible under existing law, a child whose removal proceedings are stayed may obtain work authorization. Section 1807 does not preempt any existing federal or state labor laws, including laws governing minimum age to work.

Section 1808. Penalties for False Statements in Application

Section 1808 provides for criminal penalties for falsifying the application including fine or imprisonment or both.

Section 1809. Confidentiality of Information

Section 1809 contains a confidentiality clause. The Government is not permitted to use information gathered in processing an application under the DREAM Act to initiate removal proceedings against anyone. Violation of the confidentiality agreement would result in a fine up to $10,000. However, information sharing is permissible for the purpose of investigating a crime or a national security breach. Information also may be disseminated to a coroner for the purpose of identifying the deceased.

Section 1810. Expedited Processing of Applications; Prohibition on Fees

Section 1810 prohibits the collection of an application fee.

Section 1811. SERVIS Registration

Section 1811 requires an institution of higher education to register any student it enrolls who is a beneficiary under this Act in the Student and Exchange Visitor Information System (SEVIS).

Section 1812. Higher Education Assistance

Section 1812 limits the types of federal financial assistance that beneficiaries may receive. This section limits federal financial assistance under Title IV of the Higher Education Act of 1965 to student loans under Parts B and D, and work study programs under Part C of Title IV.

Section 1813. GAO Report

Section 1813 requires the Government Accounting Office (GAO) to produce a study, seven years after enactment, concerning the number of aliens who apply for and receive benefits under this Act.

TITLE XIX—DRU'S LAW

Section 1901. Short Title

This title may be called the Dru Sjodin National Sex Offender Public Database Act of 2004, or Dru's Law

Section 1902. Definitions

Section 1903. Availability of the NSOR Database to the Public

Section 1904. Release of High Risk Inmates

Mr. LEAHY. Mr. President, I am pleased to introduce with Senator HATCH the ''Department of Justice Appropriations Authorization Act, fiscal years 2005 through 2007.'' I thank Senator HATCH, the Chairman of the Judiciary Committee, for support of this legislation.

In the 107th Congress, the Senate and the House of Representatives properly authorized spending for the entire Department of Justice, ''DOJ'' or the ''Department'', for the first time since 1979. Congress extended that authorization in 1980 and 1981. Until 2002 Congress had not passed nor had the President signed an authorization bill for the Department. In fact, there were a number of years where Congress failed to consider any Department authorization bill. This 23-year failure to properly reauthorize the Department forced the appropriations committees in both houses to reauthorize and appropriate money.

We ceded the authorization power to the appropriators for too long, but in the 107th Congress Senator HATCH and I joined forces with House Judiciary Chairman SENSENBRENNER and Ranking Member CONYERS to create and pass bipartisan legislation that reaffirmed the authorizing authority and responsibility of the House and Senate Judiciary Committees—the ''21st Century Department of Justice Appropriations Authorization Act,'' Public Law 107–273. A new era of oversight began with that new charter for the Justice Department, with the Senate and House Judiciary Committees taking active new roles in setting the priorities and monitoring the operations of the Department of Justice, the FBI and other law enforcement agencies, and that bill helped our oversight duties in many ways. And, as we have learned in the past three years, the fight against terrorism makes constructive oversight more important than ever before.

Already this Congress, House Judiciary Committee Chairman SENSENBRENNER and Ranking Member CONYERS have authored and shepherded through the House of Representatives a new Department of Justice Appropriations Authorization Act for Fiscal Years 2004 through 2006, H.R. 3036. I commend both Chairman SENSENBRENNER and Ranking Member CONYERS for working in a bipartisan manner to pass that legislation in the House of Representatives.

The ''Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007,'' is a comprehensive authorization of the Department based on H.R. 3036 as passed by the House of Representatives on March 30, 2004. Our bipartisan legislation would authorize appropriations for the Department for fiscal years 2005 through 2007, provide permanent enabling authorities which will allow the Department to efficiently carry out its mission, clarify and harmonize existing statutory authority, and repeal obsolete statutory authorities. The bill also establishes certain reporting requirements and other mechanisms intended to better enable the Congress and the Department to oversee the operations of the Department. Finally, our bill incorporates numerous other pieces of legislation on such issues as preventing—and recovering missing children, cigarette trafficking, intellectual property, going after terrorists who commit violent acts against American citizens overseas, among others—currently pending before Congress that enjoy strong bipartisan support.

I will now highlight a number of the provisions that make up this authorization bill.

Title I of our bill authorizes appropriations for the Department of Justice for each of fiscal years 2005 through 2007. With minor exceptions, these authorizations generally reflect the President's budget request.

Title II makes numerous improvements and upgrades to the Department's grant programs that assist law

enforcement and criminal justice agencies; build community capacity to prevent, reduce and control crime; assist victims of crime; and prevent crime.

We decided to combine the current Byrne formula grant, Byrne discretionary grant and Local Law Enforcement Block Grant, (LLEBG), programs into one Edward Byrne Memorial Justice Assistance Grant Program with an authorization of $1.075 billion and a list of 35 uses—a combination of the traditional Byrne and LLEBG grants regulations—for which these grants may be used.

I am a longtime supporter of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program and the LLEBG, both of which have been continuously targeted for elimination by the Bush Administration. LLEBG, which received $225 million this year, provide local governments with the means to underwrite projects that reduce crime and improve public safety, and allow communities to craft their own responses to local crime and drug problems. The Edward Byrne Memorial State and Local Law Enforcement Assistance Program, which Congress funded at $659,117,000 in fiscal year 2004, makes grants to States to improve the functioning of the criminal justice system, with emphasis on violent crimes and serious offenders, and to enforce State and local drug laws. As a senator from a rural State that relies on LLEBG and Byrne grants to combat crime, I have been concerned with the President's proposals for funding and program eliminations of these well-established grant programs; our legislation makes it clear that the same authorized funding levels and uses will be available under the new consolidated grant program as under the previous two grant programs.

I am pleased that Title II also extends the authorization of appropriations for the Regional Information Sharing System, RISS, at $100 million for each of fiscal years 2005 through 2007. RISS serves as an invaluable tool to Federal, State and local law enforcement agencies by providing much-needed criminal intelligence and investigative support services. It has built a reputation as one of the most effective and efficient means developed to combat multi-jurisdictional criminal activity, such as narcotics trafficking and gang activity. Without RISS, most law enforcement officers would not have access to newly developed crime-fighting technologies and would be hindered in their intelligence-gathering efforts.

By providing State and local law enforcement agencies with rapid access to its secure, state-of-the-art, nationwide information sharing system, RISS gives law enforcement officers the resources they need to identify and apprehend potential terrorists before they strike. With this in mind, I authored Title VII of the USA PATRIOT Act, Public Law 107–56, to increase information sharing for critical infrastructure protection. The law expanded RISS to facilitate information sharing among Federal, State and local law enforcement agencies to investigate and prosecute terrorist conspiracies and activities, and increased authorized funding to $100 million.

Proper funding provides RISS with the means to maintain six regionally-based information sharing centers that allow for information and intelligence services to be disseminated nationwide addressing major, multi-jurisdictional crimes. In addition, as the September 11 terrorist attacks and calls for increased vigilance against future attacks demonstrated, RISS requires additional support to intensify anti-terrorism measures.

Each RISS center has up to 1,600 member agencies, the vast majority of which are at the municipal and county levels. Over 400 State agencies and over 850 Federal agencies, however, are also members. The Drug Enforcement Administration, Federal Bureau of Investigation, U.S. Attorneys' Offices, Internal Revenue Service, Secret Service, Customs, and the Bureau of Alcohol, Tobacco, Firearms and Explosives are among the Federal agencies that participate in the RISS Program.

Unfortunately, the Consolidated Appropriations law for FY 2004 did not provide full funding for RISS, instead including $30 million for the program. For the coming fiscal year, the President has proposed $45 million. We must ensure that RISS can continue current services, meet increased membership support needs for terrorism investigations and prosecutions, increase intelligence analysis capabilities and add staff to support the increasing numbers of RISS members.

This title also contains a reauthorization of the Crime Free Rural States program that we created in the DOJ Authorization bill in the last Congress. This program authorizes $10 million annually for rural states to address specific crime problems plaguing their areas. In Vermont, for example, this funding could be used to battle heroin abuse and its consequences.

This authorization bill contains a number of provisions of great interest to victim service organizations and those who administer federal grants for victim assistance and compensation. In particular, I am pleased that we have responded to repeated requests from the field to increase the amount that State assistance and compensation programs may retain for administrative purposes. I have been proposing such an increase for many years, without success.

Under current law, not more than five percent of victim assistance and compensation grants may be used for the administration of the State program receiving the grant. The House bill effectively decreases this already-low apportionment by combining administrative costs with training costs—currently one percent under guidelines promulgated by the Office for Victims of Crime, OVC. By contrast, we propose raising the amount that can be used for both worthwhile purposes to 7.5 percent of the grants. While this is still less than 10 percent retention permitted, for example, by the Violence Against Women Act, it will help States to accommodate the addition of training purposes in their costs.

Our bill will also amend the Victims of Crime Act, VOCA, to clarify the provisions establishing the Antiterrorism Emergency Reserve in various ways. The original H.R. 3036 permits replenishments of the Emergency Reserve based upon amounts obligated rather than amounts actually expended in any given fiscal year. Our bill includes two additional clarifications that I proposed. First, it makes explicit that the Emergency Reserve may be replenished only once each fiscal year, and may not be continually replenished as amounts are obligated or expended. Allowing continual replenishments could result in the obligations or expenditures exceeding the $50 million Emergency Reserve maximum. Second, we have ensured that all Emergency Reserve funds—whether carried over, used to replenish the Reserve, obligated or expended—fall above the cap on spending from the Crime Victim Fund as set by appropriations legislation.

Section 242 of the House-passed bill authorized the Assistant Attorney General for the Office for Justice Programs (OJP) to impose special conditions and determine priorities for formula grants. It was unclear to me why the authority to determine formula grant priorities was necessary and what its real impact would be on local victim services. Could it be read to authorize OJP to infringe on the discretion of each State to meet its own needs, as for example by mandating that State VOCA programs give priority to public agencies over nonprofit community organizations, or fund faith-based programs before secular programs? Priorities are already set out by Congress in the authorizing statutes, as is the requirement that programs coordinate public and private victim services in their communities, and the Justice Department should not be allowed to override those congressional directives. Moreover, VOCA already has extensive reporting requirements that enable the Department to monitor how States are distributing these funds. We have therefore deleted the authority to determine formula grant priorities, while retaining the special conditions provision.

Subtitle D of Title II deals with approaches to prevent crime. I am especially pleased that we included provisions that will specifically aid in preventing rural crime because rural States and communities face a number of unique law enforcement challenges. We added these provisions from Senator DASCHLE's ''Rural Safety Act,'' S. 1907, of which I am proud to be an original cosponsor. I commend our

Democratic Leader for his commitment to providing real and meaningful investments to address the unique set of challenges facing rural law enforcement agencies.

Rural law enforcement officers patrol larger areas, operate under tighter budgets and with smaller staffs than their urban and suburban counterparts. This legislation creates programs specifically designed to meet the many complex needs of rural law enforcement agencies and officers. Methamphetamine production and use, for example, is a growing concern for Vermonters. Because the ingredients and the equipment used to produce methamphetamines are so inexpensive and readily available, the drug can be manufactured or ''cooked'' in homemade labs. This has become one of the major problems facing law enforcement agencies nationwide. Last month, the Vermont State Police busted the first known methamphetamine lab in the State. We must help our law enforcement agencies as they struggle to keep up with its troubling growth.

To help law enforcement combat the spread of methamphetamine and other challenges, we authorize in this bill $20 million in grants for fiscal year 2005 to provide for the cleanup of methamphetamine laboratories and related hazardous waste in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area; and the improvement of contract-related response time for cleanup of methamphetamine laboratories and related hazardous waste in units of local establish methamphetamine prevention and treatment pilot programs in rural areas, and provide additional financial support to local law enforcement.

We also establish a rural 9–1–1 service program to provide access to, and improve a communications infrastructure that will ensure a reliable and seamless communication between, law enforcement, fire, and emergency medical service providers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area and in States. Grants authorized at $25 million for fiscal year 2005 under this program will be used to establish or improve 9–1–1 service in rural communities. Priority in making grants under this program will be given to communities that do not have 9–1–1 service.

I am pleased that our bill includes the Campbell-Leahy-Hatch Bulletproof Vest Partnership Grant Act of 2003, a bill to reauthorize an existing matching grant program to help State, tribal, and local jurisdictions purchase armor vests for use by law enforcement officers. This bill was passed by the Senate by unanimous consent a year ago this month and it awaits consideration by the House of Representatives.

This measure marks the third time that I have had the privilege of teaming with my friend and colleague Senator CAMPBELL to work on this legislation. We authored the Bulletproof Vest Grant Partnership Act of 1998 in response to the tragic Carl Drega shootout in 1997 on the Vermont-New Hampshire border, in which two State troopers who did not have bulletproof vests were killed. The Federal officers who responded to the scenes of the shooting spree were equipped with lifesaving body armor, but the State and local law enforcement officers lacked protective vests because of the cost.

Two years later, we successfully passed the Bulletproof Vest Partnership Grant Act of 2000, and I hope we will go 3-for-3 this time around. Senator CAMPBELL brings to our effort invaluable experience in this area and during his time in the Senate he has been a leader in the area of law enforcement. As a former deputy sheriff, he knows the dangers law enforcement officers face when out on patrol. I am pleased that we have been joined in this effort by 12 other Senate cosponsors.

Our bipartisan legislation will save the lives of law enforcement officers across the country by providing more help to State and local law enforcement agencies to purchase body armor. Since its inception in 1999, this highly successful Department of Justice program has provided law enforcement officers in 16,000 jurisdictions nationwide with nearly 350,000 new bulletproof vests. In Vermont, 148 municipalities have been fortunate to receive funding for the purchase of almost 1200 vests. Without the Federal funding given by this program, I daresay that there would be close to that number of police officers without vests in Vermont today.

The Bulletproof Vest Partnership Grant Act of 2003 will further the success of the Bulletproof Vest Partnership Grant Program by re-authorizing the program through fiscal year 2007. Our legislation would continue the Federal-State partnership by authorizing up to $50 million per year for matching grants to State and local law enforcement agencies and Indian tribes at the Department of Justice to buy body armor.

We know that body armor saves lives, but the cost has put these vests out of the reach of many of the officers who need them. This program makes it more affordable for police departments of all sizes. Few things mean more to me than when I meet Vermont police officers and they tell me that the protective vests they wear were made possible because of this program. This is the least we should do for the officers on the front lines who put themselves in danger for us every day. I want to make sure that every police officer who needs a bulletproof vest gets one.

We also included in this authorization bill the ''Prevent All Cigarette Trafficking, PACT, Act,'' as passed by the Senate by unanimous consent on December 9, 2003, but which has yet to be taken up and passed by the House. I commend Senators HATCH and KOHL for their leadership on this measure and thank them for working with me, among others, to craft the compromise language that we include in this bill to crack down on the growing problem of cigarette smuggling, both interstate and international, as well as to address the connection between cigarette smuggling activities and terrorist funding. I am proud to join Senator HATCH, Senator KOHL and 10 others as a cosponsor of the standalone bill.

I also thank the National Association of Attorneys General and the Campaign for Tobacco-Free Kids, for working with us and contributing to this language. I want to say a special thanks to Vermont Attorney General Bill Sorrell, who also serves as the current Chair of the NAAG Tobacco Committee, for his valuable input on the problems with cigarette smuggling that states are facing and his support for this compromise measure. I also want to thank the Vermont Grocers Association, the Vermont Retail Association, the Vermont Association of Chiefs of Police, and the National Conference of State Legislatures for their support for this measure.

The movement of cigarettes from low-tax areas to high-tax areas in order to avoid the payment of taxes when the cigarettes are resold has become a public health problem in recent years. As State after State chooses to raise its tobacco excise taxes as a means of reducing tobacco use and as a source of revenue, many smokers have sought cheaper means by which to purchase cigarettes. Smokers can often purchase cigarettes and tobacco from remote sellers, Internet or mail order at substantial discounts due to avoidance of State taxes. These sellers, however, are evading their tax obligations because they neither collect nor pay the proper State and local excise taxes for cigarette and other tobacco product sales.

We have the ability to dramatically reduce smuggling without imposing undue burdens on manufacturers or law abiding citizens. By reducing smuggling we will also increase government revenues by minimizing tax avoidance. My friend General Sorrell has told me that this has become a rapidly growing problem in Vermont as more and more tobacco product manufacturers fail to collect and pay cigarette taxes. Criminals are getting away with smuggling and not paying tobacco taxes because of weak punishments, products that are often poorly labeled, the lack of tax stamps and the inability of the current distribution system to track sales from State-to-State. These lapses point to a need for uniform rules governing group sales to individuals.

The PACT Act will give States the authority to collect millions of dollars in lost State tax revenue resulting from online and other remote sales of cigarette and smokeless tobacco. It also ensures that every tobacco retailer, whether a brick-and-mortar or remote retailer of tobacco products, play by the same rules by equalizing the tax burdens.

Moreover, the PACT Act gives States the authority necessary to enforce the Jenkins Act, a law passed in 1949, which requires cigarette vendors to report interstate sales of cigarettes. This legislation enhances States' abilities to collect all excise taxes and verify the deposit of all required escrow payments for cigarette and smokeless tobacco sales in interstate commerce, including internet sales. In addition, it provides Federal and State law enforcement with additional resources to enforce state tobacco excise tax laws.

Finally, at the request of the National Association of Attorneys General and many State Attorneys General, we have added a new section to provide the States with authority to enforce the Imported Cigarette Compliance Act to crack down on international tobacco smuggling. This additional authority should further reduce tax evasion and eliminate a lucrative funding source for terrorist organizations.

We must not turn a blind eye to the problem of illegal tobacco smuggling. Those who smuggle cigarettes are criminals and we must close the loopholes that allow cigarette smuggling to continue.

The United States has from its inception recognized the importance of intellectual property laws in fostering innovation, and vested in Congress the responsibility of crafting laws that ensure that those who produce inventions are able to reap economic rewards for their efforts. I am pleased that we can today include, as part of the Department of Justice Authorization Act, the ''Cooperative Research and Technology Enhancement Act of 2004,'' the CREATE Act, legislation that I cosponsored along with Senator HATCH, Senator KOHL, Senator FEINGOLD, Senator SCHUMER, Senator GRASSLEY, Senator JOHNSON, and Senator COCHRAN. This bill will provide a needed remedy to one aspect of our Nation's patent laws. On June 25, 2004, the CREATE Act passed the Senate by unanimous consent.

When Congress passed the Bayh-Dole Act in 1980, the law encouraged private entities and not-for-profits such as universities to form collaborative partnerships in order to spur innovation. Prior to the enactment of this law, universities were issued fewer than 250 patents each year. That this number has in recent years surpassed two thousand is owed in large measure to the Bayh-Dole Act. The innovation this law encouraged has contributed billions of dollars annually to the United States economy and has produced hundreds of thousands of jobs.

However, one component of the Bayh-Dole Act, when read literally, runs contrary to the intent of that legislation. In 1999, the United States Court of Appeal for the Federal Circuit ruled, in Oddzon Products, Inc. v. Just Toys, Inc., that non-public information may in certain cases be considered ''prior art''—a standard which generally prevents an inventor from obtaining a patent. Thus some collaborative teams that the Bayh-Dole Act was intended to encourage have been unable to obtain patents for their efforts. The result is a disincentive to form this type of partnership, which could have a negative impact on the U.S. economy and hamper the development of new creations.

However, the Federal Circuit in its ruling invited Congress to better conform the language of the Bayh-Dole Act to the intent of the legislation. The ''CREATE Act'' does exactly that by ensuring that non-public information is not considered ''prior art'' when the information is used in a collaborative partnership under the Bayh-Dole Act. The bill also includes strict evidentiary burdens to ensure that the legislation is tailored narrowly in order to solely fulfill the intent of the Bayh-Dole Act.

I am pleased that the PIRATE Act, which I cosponsored with Senator HATCH, will be included as part of this bipartisan bill. Like the overall bill, the PIRATE Act is a consensus bill that will give the Justice Department new and needed tools—in this case, these tools are specific to the fight against piracy. This bill was unanimously passed by the Senate on June 25, 2004. By including this measure in the Department of Justice Authorization Bill, we hope to muster more forces to combat the growing problem of digital piracy.

For too long, Federal prosecutors have been hindered in their pursuit of pirates, by the fact that they were limited to bringing criminal charges with high burdens of proof. In the world of copyright, a criminal charge is unusually difficult to prove because the defendant must have known that his conduct was illegal and he must have willfully engaged in the conduct anyway. For this reason prosecutors can rarely justify bringing criminal charges, and copyright owners have been left alone to fend for themselves, defending their rights only where they can afford to do so. In a world in which a computer and an Internet connection are all the tools you need to engage in massive piracy, this is an intolerable predicament.

The PIRATE Act will give the Attorney General civil enforcement authority for copyright infringement. It also calls on the Justice Department to initiate training and pilot programs to ensure that Federal prosecutors across the country are aware of the many difficult technical and strategic problems posed by enforcing copyright law in the digital age.

This new authority does not supplant either the criminal provisions of the Copyright Act, or the remedies available to the copyright owner in a private suit. Rather, it allows the government to bring its resources to bear on this immense problem, and to ensure that more creative works are made available online, that those works are more affordable, and that the people who work to bring them to us are paid for their efforts.

I am pleased that the Koby Mandell Act of 2003 was included in this legislation. I am a proud cosponsor of the stand-alone bill. The Act would establish an office within the Department of Justice with a mandate to ensure equal treatment of all victims of terrorist acts committed overseas. Its primary role would be to guarantee that vigorous efforts are made to pursue, prosecute, and punish each and every terrorist who harms Americans overseas, no matter where attacks occur. It would also take steps to inform victims of important developments in international cases, such as status reports on efforts to capture terrorists and monitoring the incarceration of those terrorists who are imprisoned overseas. This is important legislation that would send a strong message of resolve that we are committed to finding and punishing every terrorist who harms Americans overseas.

I am pleased that we have included part of S. 1286, the Seniors Safety Act, which I introduced last year. This bill would create an enhanced sentencing penalty for those who commit crimes against the elderly, create new civil and criminal penalties for pension fraud, and create a centralized service to log complaints of telemarketing fraud.

We would also provide the Attorney General with a new and substantial tool to prevent telemarketing fraud—the power to block or terminate service to telephone facilities that are being used to defraud innocent people. The Justice Department could use this authority to disrupt telemarketing fraud schemes directed from foreign sources by cutting off the swindlers' telephone service. Even if the criminals acquire a new telephone number, temporary interruptions will prevent some seniors from being victimized.

We have agreed to incorporate a slightly revised version of the Federal Prosecutors' Retirement Benefit Equity Act of 2004, which was originally introduced as a stand-alone bill with my good friends Senator HATCH, Senator MIKULSKI and Senator DURBIN. This bill would correct an inequity that exists under current law, whereby Federal prosecutors receive substantially less favorable retirement benefits than nearly all other people involved in the Federal criminal justice system including pretrial services officers, probation officers, accountants, cooks and secretaries of the Bureau of Prisons. Indeed the benefits incorporated in this bill are comparable not only to those received by traditional ''law enforcement officers'' such as Federal agents, but also the Capitol Police, Supreme Court police, air traffic controllers and firefighters. The bill would essentially allow, but not mandate, AUSAs to retire at age 50 with 20 years of service.

Currently, Assistant United States Attorneys, AUSAs, and other Federal

prosecutors are not eligible for these enhanced benefits even though they are enjoyed by the vast majority of other employees in the criminal justice system. Once a defendant is brought to into the criminal justice system, the person with whom they have the most face-to-face contact, and often in an extremely confrontational environment, is the Federal prosecutor. AUSAs and other Federal prosecutors participate in planning investigations, interviewing witnesses both inside and outside of the office setting, debriefing defendants, obtaining warrants, negotiating plea agreements and representing the government at trials and sentencings. Each of these responsibilities encompass ''the investigation, apprehension, or detention'' of individuals suspected or convicted of violating Federal law which is just one justification for granting extended benefits to law enforcement officers.

AUSAs are an integral part of the criminal justice system and their unique position and demanding jobs has rightfully earned them the benefits set forth in this important bill.

I am pleased that S. 710, the Leahy-Hatch Anti-Atrocity Alien Deportation Act, was included in this legislation. This measure would expand the grounds for removing alien human rights violators from the United States, or for denying them entry in the first place. We have heard many accounts of abusers who have taken advantage of America's freedoms after committing horrifying violations of their fellow citizens in their native lands. We need to stop that from happening again.

This bill passed the Judiciary Committee last November but has been subject to an anonymous hold on the floor. A similar version of it passed the Senate by unanimous consent in the 106th Congress. It is long past time to make it law.

I would note that on May 12, a Rwandan man wanted on international charges of genocide and crimes against humanity was arrested at his suburban Chicago home by agents from the Bureau of Immigration and Customs Enforcement, ICE. Before I and others began to raise the issue of the war criminals among us, it was my impression that the former INS paid little attention to rooting out these thugs. I am pleased that the issue has taken on greater importance at ICE, and urge the Senate to pass this bill so that we can expand the grounds of inadmissibility and removability for human rights violators.

I am proud that we include Schumer-Specter legislation to honor the sacrifice of the September 11, 2001, terrorist victims by creating Congressional medals that would be awarded to their families and loved ones by the President. I am proud to have joined my friends as a cosponsor of this legislation, as have 18 other Senators.

The tragedy of September 11, 2001, demanded unprecedented sacrifices of everyday American civilians and rescue workers—3,000 of whom lost their lives in the attacks. In recognition of their heroic actions on that day, the bipartisan Fallen Heroes of 9/11 Act would create a medal to be awarded posthumously to the victims of the September 11 terrorist attacks. The medal would be designed by the Department of Treasury and awarded to representatives of the deceased by the President. The production of the medals would be paid for by the sale of duplicate medals to the public. Those of us who lost loved ones almost three years ago can never have them back, but a medal of honor could recognizes the sacrifices and heroic efforts of our fallen citizens.

We also incorporated language similar to the Leahy-Grassley-Lincoln ''Missing Child Cold Case Review Act of 2004,'' S. 2435, which will allow an Inspector General to authorize his or her staff to provide assistance on and conduct reviews of the inactive case files, or ''cold cases,'' involving children stored at the National Center for Missing and Exploited Children, NCMEC, and to develop recommendations for further investigations. The only alteration we made to the original bill was to include language to also allow the Inspector General of the Government Printing Office to authorize his or her staff to work on cold cases.

Speed is everything in homicide investigations. As a former prosecutor in Vermont, I know firsthand that speed is of the essence when trying to solve a homicide. This focus on speed, however, has led the law enforcement community to generally believe that any case not solved within the first 72 hours or lacking significant leads and witness participation has little likelihood of being solved, regardless of the expertise and resources deployed. With time, such unsolved cases become ''cold,'' and these are among the most difficult and frustrating cases detectives face because they are, in effect, cases that other investigators, for whatever reason, failed to solve.

Our Nation's law enforcement agencies, regardless of size, are not immune to rising crime rates, staff shortages and budget restrictions. Such obstacles have strained the investigative and administrative resources of all agencies. More crime often means that fewer cases are vigorously pursued, fewer opportunities arise for follow-up and individual caseloads increase for already overworked detectives.

All the obstacles that hamper homicide investigations in their early phases contribute to cold cases. The National Center for Missing and Exploited Children—our Nation's top resource center for child protection—presently retains a backlog of cold cases involving children that law enforcement departments nationwide have stopped investigating primarily due to all these obstacles. NCMEC serves as a clearinghouse for all cold cases in which a child has not been found and/or the suspect has not been identified.

This provision will allow an Inspector General to provide staff support to NCMEC for the purpose of conducting reviews of inactive case files to develop recommendations for further investigation and similar activities. The Inspector General community has one of the most diverse and talented criminal investigative cadres in the Federal Government. A vast majority of these special agents have come from traditional law enforcement agencies, and are highly trained and extremely capable of dealing with complex criminal cases.

Under current law, an Inspector General's duties are limited to activities related to the programs and operations of an agency. This measure would allow an Inspector General to permit criminal investigators under his or her supervision to review cold case files, so long as doing so would not interfere with normal duties. An Inspector General would not conduct actual investigations, and any Inspector General would only commit staff when the office's mission-related workloads permitted. At no time would these activities be allowed to conflict with or delay the stated missions of an Inspector General.

From time to time a criminal investigator employed by an Inspector General may be between investigations or otherwise available for brief periods of time. This act would also allow those resources to be provided to the National Center for Missing and Exploited Children. Commitment of resources would be at a minimum and would not materially affect the budget of any office.

We have before us the type of bipartisan legislation that should be moved easily through the Senate and House. It is supported by the Department of Justice Office of the Inspector General. I applaud the ongoing work of the National Center for Missing and Exploited Children and hope that we can soon provide NCMEC with the resources it requires to solve cold cases involving missing children.

This authorization bill includes a provision that would help colleges and universities in Vermont and across the Nation. It would allow foreigners who are pursuing ''distance learning'' opportunities at American schools to enter the country for up to 30 days to fulfill academic requirements. Under current law, these students do not fall under any visa category, and many are being denied entry and are thus unable to complete their educations. This is a loophole that harms both those students and the institutions that serve them.

In recent months, serious questions have been raised in the media and in several congressional hearings about deficiencies within the translation program at the FBI. Nearly 2 years ago I began asking questions in Judiciary Committee hearings about the FBI's translation program. Most of these remain unanswered. As a result, members of our Committee are no closer to

determining the scope of the issue, including the pervasiveness and seriousness of FBI shortcomings in this area, or what the FBI intends to do to rectify personnel shortages, security issues, translation inaccuracies and other problems that have plagued the translator program for years.

Section 205 of the USA PATRIOT Act included an important reporting requirement by the Attorney General to the Senate and House Judiciary Committees about 1. the number of translators employed by the FBI, 2. legal and practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis, and 3. the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs. To date, the Attorney General has not made the report required by Section 205—most likely because there is no date certain written in the law by which the report must be made. This provision fills that gap by requiring the report ''not later than 30 days after the date of enactment . . . and annually thereafter . . . with respect to the preceding 12 month period.'' It also expands the reporting requirement to include translators ''contracted'' by the government in addition to those ''employed.''

I have worked my entire professional life to protect children from those who would prey on them. Preventing child exploitation through the use of the Internet is one concrete and important way to help this important cause. In this regard, under the Protection of Children from Sexual Predators Act of 1998, Public Law 105–314, remote computing and electronic communication service providers are mandated to report all instances of child pornography to the National Center for Missing and Exploited Children. I respect and applaud the work of NCMEC and its tireless efforts in this important national priority.

In March 1998, Congress mandated that NCMEC initiate the CyberTipline for citizens to report online sexual crimes against children. In December 1999, Congress passed Public Law 106–113 to modify 42 U.S.C. §13032(b)(1) to set forth a ''duty to report'' by ISPs. According to NCMEC, many U.S. electronic communications service providers are not complying with the requirement that they register and use the CyberTipline to report child porn found on their services because supporting regulations required to be promulgated by the Department of Justice on matters such as the contents of the report were never done so.

In this authorization bill we propose language that amends the ''duty to report'' language by providing specific guidance on what information is required to be included in the ISP reports. The information required includes the content and images of the apparent violation, the Internet Protocol Address, the date and time associated with the violation, and specific contact information for the sender.

America's film heritage is an important part of the American experience, an inheritance from previous generations that help tell us who we are—and who we were—as a society. They offer insight into our history, our dreams, and our aspirations. Yet sadly, this part of American heritage is literally disintegrating faster than can be saved. Today, I am delighted that with the help of Senator HATCH, the ''National Film Preservation Act'' can be included in our Department of Justice Reauthorization bill.

I introduced the ''National Film Preservation Act'' last November, a bill that will reauthorize and extend the ''National Film Preservation Act of 1996.'' We first acted in 1988 in order to recognize the educational, cultural, and historical importance of our film heritage, and its inherently fragile nature. In doing so, Congress created the National Film Preservation Board and the National Film Preservation Foundation both of which operate under the auspices of the Library of Congress in order to help save America's film heritage.

The ''National Film Preservation Act'' will allow the Library of Congress to continue its important work in preserving America's fading treasures, as well as providing grants that will help libraries, museums, and archives preserve films and make those works available for study and research. These continued efforts are more critical today than ever before. While a wide range of works have been saved, with every passing day we lose the opportunity to save more. Fewer than 20 percent of the features of the 1920s exist in complete form and less than 10 percent of the features of the 1910s have survived into the new millennium.

The films saved by the National Film Preservation Board are precisely those types of works that would be unlikely to survive without public support. At-risk documentaries, silent-era films, avant-garde works, ethnic films, newsreels, and home movies frequently provide more insight into the American experience than the Hollywood sound features kept and preserved by major studios. What is more, in many cases only one copy of these ''orphaned'' works exists. As the Librarian of Congress, Dr. James H. Billington, has noted, ''Our film heritage is America's living past.''

I would like to thank Senator HATCH again for working with me to include the ''National Film Preservation Act'' in the bill we are introducing today.

I am pleased that the DREAM Act has been included in this bill. I am a cosponsor of the bill, which Senators HATCH and DURBIN introduced last year and was passed last fall by the Judiciary Committee. It would benefit undocumented alien children who were brought to the United States by their parents as young children, by restoring States' ability to offer them in-state tuition and offering them a path to legal residency. It has been distressing that a bill with Committee approval and 48 sponsors has been unable to get a vote on the floor of the Senate, and I hope that including the DREAM Act in this legislation will give it added momentum.

Status Reports on Enemy Combatants: The House-passed bill included an important reporting requirement authored by Representative ADAM SCHIFF and adopted by the House Judiciary Committee. Specifically, this provision required the Department of Justice to submit an annual report to Congress specifying the number of U.S. persons or residents detained on suspicion of terrorism, and describing Department standards for recommending or determining that a person should be tried as a criminal defendant or designated as an enemy combatant. A Washington Post editorial dated April 3, 2004, praised this provision, while noting that ''If more members of the House took their duty to legislate in this critical area seriously, Congress would craft a bill that actually imposed standards rather than simply inquired what they were.'' I agree, and regret that was unable to persuade Chairman HATCH to retain this modest oversight tool.

Privacy Officer: I am disappointed that we will not be including the privacy officer provision referred to us by the House. It is critical that the Department have a designated leader who is consistently mindful of the impact of the Department's activities on privacy rights. While there has been some history of a privacy official at the Department, these positions have been nonstatutory, and thus there has been no guarantee of consistent vigor and accountability on these issues. Given that the Department's mission increasingly involves gathering and assessing personal information, we simply can't afford to have a lapse in accountability on privacy. Moreover, this is not an untested idea. Congress created a privacy officer for the Department of Homeland Security, and it has been recognized as a successful example of how this role can be helpful in assessing and addressing privacy concerns. We need to follow this lead, and the privacy officer provision would have been a good opportunity to do so.

I look forward to working with Senator HATCH, Congressman SENSENBRENNER and Congressman CONYERS to continue the important business of reauthorizing the Department of Justice. Clearly, regular reauthorization of the Department should be part and parcel of the Committees' traditional role in overseeing the Department's activities. Swift passage into law of the ''Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007'' will be a significant step toward enhancing our oversight role.

By Mr. GRASSLEY (for himself, Mr. LEAHY, Mr. BOND, Mr. NELSON of Nebraska, and Mr. FEINGOLD):

S. 2864. A bill to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted; to the Committee on the Judiciary.

Mr. GRASSLEY. 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. 2864

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 Farmer Bankruptcy Relief Act of 2004''.

SEC. 2. EIGHTEEN-MONTH EXTENSION OF PERIOD FOR WHICH CHAPTER 12 OF TITLE 11, UNITED STATES CODE, IS REENACTED.

(a) AMENDMENTS.—Section 149 of title I of division C of Public Law 105–277 (11 U.S.C. 1201 note) is amended—

(1) by striking ''January 1, 2004'' each place that term appears and inserting ''July 1, 2005''; and

(2) in subsection (a)—

(A) by striking ''June 30, 2003'' and inserting ''December 31, 2003''; and

(B) by striking ''July 1, 2003'' and inserting ''January 1, 2004''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) are deemed to have taken effect on January 1, 2004.

By Mr. INHOFE (for himself, Mr. HAGEL, Mr. ROBERTS, Mr. BURNS, Mr. CORNYN, Ms. CANTWELL, Mrs. BOXER, Mr. NELSON of Nebraska and Mr. CRAIG):

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans; read the first time.

Mr. INHOFE. Mr. President, I rise today to proudly introduce the Commodity Assessment Protection and Reform Act.

This legislation fixes a potential problem for our wheat producers in the State of Oklahoma as well as other wheat producing states.

As Government encourages agricultural producers to become more responsible for their own marketing and research programs, it is vital that we give producers the ability to do just that.

To enhance marketing and research of agricultural commodities, farm programs for many years have authorized the use of marketing loans for some commodities. Producers receive cash loans using the commodity as collateral. Marketing loans allow the producer to market crops while also providing cash to pay outstanding bills.

These marketing and research programs provide many benefits: increasing commodity category sales; creating a viable, thriving marketplace for individual businesses; providing greater opportunity for brands and businesses to compete for their share of the category; protecting small producers from being severely disadvantaged against large competitors that could undermine industry growth; building a more favorable economic environment—better prices for producers, more revenue growth for processors; reducing dependence on taxpayer dollars for support payments and government administration in times of economic hardship; providing an open, free flow of consumer information to help consumers make informed choices about purchasing these commodities; and providing ongoing investments in research to ensure product quality, safety and nutrition expectations.

For wheat, this program is administered by the individual State wheat commissions and is not a national program. In Oklahoma, wheat producers have the option to opt out of the program if they choose.

Wheat producers in Oklahoma, and in many other States, have supported this system for collecting assessments on the commodities they produce. For wheat placed under loan with the United States Department of Agriculture, USDA, Commodity Credit Corporation, CCC, the CCC has collected these grower-funded assessments. Again, these assessments are used to fund research and marketing programs.

The loan placement is considered to occur at the first point of sale. The CCC has supported State commissions in the collection of grower-funded assessments for many years. These State assessments have been collected under a cooperative agreement defined in a Memoranda of Understanding between individual State commodity commissions and the USDA.

Recently USDA determined that if the state commission changes the assessment rate, USDA would no longer honor a Memorandum of Understanding between a state commodity commission and USDA. In several states, wheat growers voted to increase their support of commodity activities by approving an assessment increase. State wheat commissions whose growers have voted for increased funding are faced with no viable means of collecting assessments on the commodity under the loan program.

USDA claims that it lacks statutory authority to recognize these new or modified Memoranda of Understanding. The decision by USDA not to honor amended Memoranda of Understanding could cause serious financial harm to the work of the commissions, which support a range of activities from research to market development.

The use of these funds is very important for the expanding markets and increasing research. They become even more critical when wheat prices are low.

This decision by USDA to no longer honor these Memoranda of Understanding has caused great hardship for a number of wheat states whose producers have voluntarily voted to give more of their own money to programs they deem important.

In order to correct this problem, I am introducing legislation that will allow USDA to continue to collect approved State commodity assessments. This legislation authorizes the USDA to recognize a Memorandum of Understanding when a State has increased or modified its assessment rate, as well as recognize Memoranda of Understanding that have been terminated prior to the date of enactment of this legislation.

According to USDA, the cost of implementing this legislation would be minimal, since the collection procedure is already in place and will only require a change in the factor of the assessment.

I would like to note that the House Agriculture Committee passed this bill unanimously last week through the excellent work of my friends GEORGE NETHERCUTT and BOB GOODLATTE.

The House Agriculture Committee informs me that their intention is to achieve full House passage of this legislation by suspension of the rules next week. I want to make a special plea to the Senate to pass this simple, much-needed, thoroughly bipartisan, and noncontroversial legislation in the 108th Congress. Toward that end, I request that the bill be held at the desk per Rule 14.

Again, as Government encourages agricultural producers to become more responsible for their own marketing and research programs, this common sense legislation is needed to ensure the continued success of these programs.

At this time I thank the people in Oklahoma who have contacted me in support of this legislation: Jeramy Rich with the Oklahoma Farm Bureau, Ray Wulf with the Oklahoma Farmers Union, Tim Bartram with the Oklahoma Wheat Growers Association, Mark Hodges with Oklahoma Wheat Commission, Mike Kubicek with the Oklahoma Peanut Commission, as well my Legislative Assistant Mike Ference who assisted me with this legislation. I appreciate all of their support.

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. 2866

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 ''Commodity Assessment, Protection, and Reform Act''.

SEC. 2. COLLECTION OF COMMODITY ASSESSMENTS.

Subtitle B of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7931 et seq.) is amended by adding at the end the following:

"SEC. 1210. COLLECTION OF COMMODITY ASSESSMENTS.

''(a) DEFINITION OF ASSESSMENT.—In this section, the term 'assessment' means funds that are—

''(1) collected with respect to a specific commodity in accordance with this Act;

''(2) paid by the first purchaser of the commodity in accordance with a State law or this title; and

''(3) not collected through a tax or other revenue collection activity of a State.

''(b) AUTHORITY TO COLLECT COMMODITY ASSESSMENTS FROM MARKETING ASSISTANCE LOANS.—The Secretary may collect commodity assessments from the proceeds of a marketing assistance loan made under this subtitle in accordance with an agreement between the Secretary and the State.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 441—EXPRESSING THE SENSE OF THE SENATE THAT OCTOBER 17, 1984, THE DATE OF THE RESTORATION BY THE FEDERAL GOVERNMENT OF FEDERAL RECOGNITION TO THE CONFEDERATED TRIBES OF COOS, LOWER UMPQUA, AND SIUSLAW INDIANS, SHOULD BE MEMORIALIZED

Mr. SMITH (for himself and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Indian Affairs:

S. RES. 441

Whereas the Coos, Lower Umpqua, and Siuslaw Restoration Act (25 U.S.C. 714 et seq.), which was signed by the President on October 17, 1984, restored Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians;

Whereas the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians historically inhabited land now in the State of Oregon, from Fivemile Point in the south to Tenmile Creek in the north, west to the Pacific Ocean, then east to the crest of the Coast Range, encompassing the watersheds of the Coos River, the Umpqua River to Weatherly Creek, the Siuslaw River, the coastal tributaries between Tenmile Creek and Fivemile Point, and portions of the Coquille watershed;

Whereas in addition to restoring Federal recognition, that Act and other Federal Indian statutes have provided the means for the Confederated Tribes to achieve the goals of cultural restoration, economic self-sufficiency, and the attainment of a standard of living equivalent to that enjoyed by other citizens of the United States;

Whereas by enacting the Coos, Lower Umpqua, and Siuslaw Restoration Act (25 U.S.C. 714 et seq.), the Federal Government—

(1) declared that the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians were eligible for all Federal services and benefits provided to federally recognized tribes;

(2) provided the means to establish a tribal reservation; and

(3) granted the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians self-government for the betterment of tribal members, including the ability to set tribal rolls;

Whereas the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians have embraced Federal recognition and self-sufficiency statutes and are actively working to better the lives of tribal members; and

Whereas economic self-sufficiency, which was the goal of restoring Federal recognition for the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, is being realized through many projects: Now, therefore, be it

Resolved, That it is the sense of the Senate that October 17, 1984, should be memorialized as the date on which the Federal Government restored Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.

SENATE RESOLUTION 442—APOLOGIZING TO THE VICTIMS OF LYNCHING AND THEIR DESCENDANTS FOR THE SENATE'S FAILURE TO ENACT ANTI-LYNCHING LEGISLATION

Ms. LANDRIEU (for herself and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 442

Whereas the crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction;

Whereas lynching was a common practice in the United States until the middle of the 20th century;

Whereas lynching was a crime that occurred throughout the Nation, with documented incidents in all but 4 States;

Whereas at least 4,749 people, predominantly African-Americans, were reported lynched in the United States between 1881 and 1964;

Whereas 99 percent of all lynch mob perpetrators escaped any form of punishment from State or local officials;

Whereas lynching prompted African-Americans to form the National Association for the Advancement of Colored People (NAACP) and prompted members of B'nai B'rith to found the Anti-Defamation League;

Whereas nearly 200 anti-lynching bills were introduced in Congress during the first half of the 20th century;

Whereas between 1890 and 1952, 7 Presidents petitioned Congress to end lynching;

Whereas between 1920 and 1940, the House of Representatives passed 3 strong anti-lynching measures;

Whereas protection against lynching was the minimum and most basic of Federal responsibilities, yet the Senate failed to enact anti-lynching legislation despite repeated requests by civil rights groups, Presidents, and the House of Representatives;

Whereas until the recent publication of ''Without Sanctuary: Lynching Photography in America'', the victims of lynching have never been properly acknowledged;

Whereas only by coming to terms with its history can the United States effectively champion human rights abroad; and

Whereas an apology offered in the spirit of true repentance moves the Nation toward reconciliation and may become central to a new understanding upon which improved racial relations can be forged: Now, therefore, be it

Resolved, That the Senate—

(1) apologizes to the victims and survivors of lynching for its failure to enact anti-lynching legislation;

(2) expresses its deepest sympathies and most solemn regrets to the descendants of victims of lynching whose ancestors were deprived of life, human dignity, and the constitutional protections accorded all other citizens of the United States; and

(3) remembers the history of lynching, to ensure that these personal tragedies will be neither forgotten nor repeated.

Ms. LANDRIEU. Mr. President, it has been said that ''ignorance, allied with power, is the most ferocious enemy justice can have.'' Sadly, this great body, in which I am so proud to serve, once allied its power with ignorance. In so doing, it condoned unspeakable injustice that diminished the role of the Senate, and heaped untold suffering on Americans sorely in need of our protection. I am referring to the Senate's role in the decades long campaign to end lynching in this country. On three separate occasions, our colleagues in the House of Representatives passed anti-lynching legislation with overwhelming majorities. On all three of those occasions members of this Chamber blocked, or filibustered the consideration of that legislation.

Between 1882, when records first began to be collected, and 1968 four thousand, seven hundred and forty-two Americans lost their lives to lynch mobs. The experts believe that undocumented cases might double that figure. The vast majority of those killed—three thousand, four hundred and forty-five Americans—were African American. Sadly, a disproportionate number of those deaths occurred within my home region of the South, but 46 of the 50 States experienced these atrocities. Lynching was truly a national problem deserving the attention of the national legislative bodies.

Frederick Douglas seems to have captured the real reason for this dark period of our national history. These acts of terrorism were not so much an admission of African Americans' weakness, but of their perseverance—and indomitable spirit. Douglas wrote: It is proof that the Negro is not standing still. He is not dead, but alive and active. He is not drifting with the current, but manfully resisting it . . . A ship rotting at anchor meets with no resistance, but when she sails on the sea, she has to buffet opposing billows. The enemies of the Negro see that he is making progress and they naturally wish to stop him and keep him in just what they consider his proper place.

It was, in short, the ability of African Americans to overcome Jim Crow laws, to overcome share-cropping, to overcome second-class citizenship that provoked such savagery. Its an old story that repeats itself throughout human history. Whether it was the Israelites in Egypt, the colonial empires in Africa or America's own history of Apartheid, rulers that assume superiority inevitably prove themselves models of mankind's basest instincts.

It should also be noted that this was not only an outrage committed against African Americans. The effort to dehumanize people on the basis of race or ethnicity did not limit itself to black Americans. In fact, the single largest incident of lynching occurred in my home state, in my home town of New Orleans. Yet, the victims were not black. They were Italians. On March 14, 1891, 11 Italian immigrants were lynched in the City of New Orleans. These immigrants too were thought to