S. 850

At the request of Mr. CHAFEE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 850, a bill to expand the Federal tax refund intercept program to cover children who are not minors.

S. 857

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 857, a bill to protect United States military personnel and other elected and appointed officials of the United States Government against criminal prosecution by an international criminal court to which the United States is not a party.

S. 858

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 858, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small business with respect to medical care for their employees.

S.J. RES. 13

At the request of Mr. WARNER, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S.J. Res. 13, a joint resolution conferring honorary citizenship of the United States on Paul Yves Roch Gilbert du Motier, also known as the Marquis de Lafayette.

S. RES. 16

At the request of Mr. THURMOND, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from North Dakota (Mr. DORGAN), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. Res. 16, a resolution designating August 16, 2001, as ''National Airborne Day.''

S. RES. 75

At the request of Mr. HUTCHINSON, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. Res. 75, a resolution designating the week beginning May 13, 2001, as ''National Biotechnology Week.''

S. CON. RES. 15

At the request of Mr. BROWNBACK, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Oklahoma (Mr. INHOFE), the Senator from Colorado (Mr. ALLARD), and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Con. Res. 15, a concurrent resolution to designate a National Day of Reconciliation.

S. CON. RES. 17

At the request of Mr. SARBANES, the name of the Senator from Nebraska (Mr. NELSON, of Nebraska) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

AMENDMENT NO. 389

At the request of Mr. VOINOVICH, the name of the Senator from New Jersey (Mr. CORZINE) was withdrawn as a cosponsor of amendment No. 389.

AMENDMENT NO. 426

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 426 intendent to be proposed to S. 1, an original bill to extend programs and activities under the Elementary and Secondary Education Act of 1965.

AMENDMENT NO. 443

At the request of Mr. VOINOVICH, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 443 intendent to be proposed to S. 1, an original bill to extend programs and activities under the Elementary and Secondary Education Act of 1965.

AMENDMENT NO. 451

At the request of Mrs. LINCOLN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 451.

At the request of Mrs. LINCOLN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 451, supra.

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 451, supra.

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 451, supra.

AMENDMENT NO. 461

At the request of Mr. DORGAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 461 intendent to be proposed to S. 1, an original bill to extend programs and activities under the Elementary and Secondary Education Act of 1965.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself, Mr. CONRAD, Mr. DOMENICI, Mr. JOHNSON, Mr. ROBERTS, and Mr. NELSON of Nebraska):

S. 859. A bill to amend the Public Health Service Act to establish a mental health community education program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. THOMAS. Mr. President, I rise today to introduce the Rural Mental Health Accessibility Act of 2001 with Senators CONRAD, DOMENICI, JOHNSON, ROBERTS, and NELSON from Nebraska. Like all of the rural health bills I've worked on with my colleagues in the Senate Rural Health Caucus, I am proud of the bipartisan effort behind this important legislation.

I believe, the Rural Mental Health Accessibility Act of 2001 is crucial because it reflects the unique needs of rural communities to improve access to mental health services.

Many people do not seek mental health services because of the stigma associated with mental illnesses. This is especially true in rural areas where anonymity is more difficult to obtain. This legislation creates the Mental Health Community Education Grant program, which permits states and communities to conduct targeted public education campaigns with particular emphasis on mental illnesses, mental retardation, suicide, and substance abuse disorders. This new program will go a long way in reducing the stigmatization and misinformation surrounding mental health issues.

More than 75 percent of the 518 nationally designated Mental Health Professional Shortage Areas are located in rural areas and one-fifth of all rural counties in the nation have no mental health services of any kind. Frontier counties have even more drastic numbers as 95 percent of these remote areas do not have psychiatrists, 68 percent do not have psychologists and 78 percent do not have social workers. While I'm proud that every county in my home state of Wyoming now has a psychologist, there are still several counties that are severely underserved and are designated as a Mental Health Shortage Area.

Due to the scarcity of mental health specialists in rural communities, primary care providers are often the only source of treatment. However, primary care providers do not receive the specialized training necessary to recognize the signs of depression and other mental illnesses in their patients. The Rural Mental Health Accessibility Act of 2001 authorizes an Interdisciplinary Grant program that will permit universities and other entities to establish interdisciplinary training programs where mental health providers and primary care providers are taught side-by-side in the classroom, with clinical training conducted in rural underserved communities. This will encourage greater collaboration amongst providers and increase the quality of care for rural patients.

I am particularly concerned that suicide rates among rural children and adolescents are higher than in urban areas, especially in western and frontier states. Additionally, 20 percent of the nation's elderly population live in rural areas, but only 9 percent of our nation's physicians practice in rural areas. This bill authorizes $30 million for 20 demonstration projects, equally divided, to provide mental health services to children and elderly residents of long term care facilities located in mental health shortage areas. These projects will also provide mental illness education and targeted instruction on coping and dealing with the

stressful experiences of childhood and adolescence or aging.

To prepare for further expansion of mental telehealth, this bill requires the Director of the National Institute of Mental Health in consultation with the Director of the Office of Rural Health Policy to report to Congress on the efficacy and effectiveness of mental health services delivered through the utilization of telehealth technologies.

In crafting this legislation I and my colleagues worked with numerous outside organizations with an interest in mental health issues. As a result of this collaboration, the Rural Mental Health Accessibility Act of 2001 is strongly supported by the National Rural Health Association, the National Alliance for the Mentally Ill, the American Psychiatric Association and the American Psychological Association.

I believe this legislation is critically important to the health and well-being of our rural communities. I strongly urge all my colleagues to support the rural areas in their states by becoming cosponsors of the Rural Mental Health Accessibility Act of 2001.

I ask unanimous consent that the text of the bill and letters of endorsement from supporting organizations be printed in the RECORD.

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

S. 859

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 ''Rural Mental Health Accessibility Act of 2001''.

SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

''SEC. 330I. MENTAL HEALTH COMMUNITY EDUCATION PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) shall award grants to eligible entities to conduct mental health community education programs.

''(b) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' includes a State entity, public or private school, mental health clinic, rural health clinic, local public health department, nonprofit private entity, federally qualified health center, rural Area Health Education Center, Indian tribe and tribal organization, and any other entity deemed eligible by the Secretary.

''(2) MENTAL HEALTH COMMUNITY EDUCATION PROGRAM.—The term 'mental health community education program' means a program regarding mental illness, mental retardation, suicide prevention and co-occurring mental illness and substance abuse disorder.

''(c) PREFERENCE.—In awarding grants under subsection (a), the Director shall give a preference to eligible entities that are or propose to be in a network, or work in collaboration, with other eligible entities to carry out the programs under this section, such as a rural public or nonprofit private entity that represents a network of local health care providers or other entities that provide or support delivery of health care services, and a State office of rural health or other appropriate State entity.

''(d) DURATION.—The Director shall award grants under subsection (a) for a period of 3 years.

''(e) AMOUNT.—Each grant awarded under this section shall not be greater than $200,000 each fiscal year.

''(f) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds received through such grant to administer a mental health community education program to rural populations that provides information to dispel myths regarding mental illness and to reduce any stigma associated with mental illness.

''(g) APPLICATION.—An eligible entity desiring a grant under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require, including—

''(1) a description of the activities which the eligible entity intends to carry out using amounts provided under the grant;

''(2) a plan for continuing the project after Federal support is ended;

''(3) a description of the manner in which the educational activities funded under the grant will meet the mental health care needs of underserved rural populations within the State; and

''(4) a description of how the local community or region to be served by the network or proposed network, if the eligible entity is in such a network, will be involved in the development and ongoing operations of the network.

''(h) EVALUATIONS; REPORT.—Each eligible entity that receives a grant under this section shall submit to the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) an evaluation describing the programs authorized under this section and any other information that the Director deems appropriate. After receiving such evaluations, the Director shall submit to the appropriate committees of Congress a report describing such evaluations.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal years 2003 through 2006.

''SEC. 330J. INTERDISCIPLINARY GRANT PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) shall award grants to eligible entities to establish interdisciplinary training programs that include significant mental health training in rural areas for certain health care providers.

''(b) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a public university or other educational institution that provides training for mental health care providers or primary health care providers.

''(2) MENTAL HEALTH CARE PROVIDER.—The term 'mental health care provider' means—

''(A) a physician with postgraduate training in a residency program of psychiatry;

''(B) a licensed psychologist (as defined by the Secretary for purposes of section 1861(ii) of such Act (42 U.S.C. 1395x(ii)));

''(C) a clinical social worker (as defined in section 1861(hh)(1) of such Act (42 U.S.C. 1395x(hh)(1)); or

''(D) a clinical nurse specialist (as defined in section 1861(aa)(5)(B) of such Act (42 U.S.C. 1395x(aa)(5)(B))).

''(3) PRIMARY HEALTH CARE PROVIDER.—The term 'primary health care provider' includes family practice, internal medicine, pediatrics, obstetrics and gynecology, geriatrics, and emergency medicine physicians as well as physician assistants and nurse practitioners.

''(4) RURAL AREA.—The term 'rural area' means a rural area as defined in section 1886(d)(2)(D) of the Social Security Act, or such an area in a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725)), or any other geographical area that the Director designates as a rural area.

''(c) DURATION.—Grants awarded under subsection (a) shall be awarded for a period of 5 years.

''(d) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds received through such grant to administer an interdisciplinary, side-by-side training program for mental health care providers and primary health care providers, that includes providing, under appropriate supervision, health care services to patients in underserved, rural areas without regard to patients' ability to pay for such services.

''(e) APPLICATION.—An eligible entity desiring a grant under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may reasonably require, including—

''(1) a description of the activities which the eligible entity intends to carry out using amounts provided under the grant;

''(2) a description of the manner in which the activities funded under the grant will meet the mental health care needs of underserved rural populations within the State; and

''(3) a description of the network agreement with partnering facilities.

''(f) EVALUATIONS; REPORT.—Each eligible entity that receives a grant under this section shall submit to the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration) an evaluation describing the programs authorized under this section and any other information that the Director deems appropriate. After receiving such evaluations, the Director shall submit to the appropriate committees of Congress a report describing such evaluations.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.

''SEC. 330K. STUDY OF MENTAL HEALTH SERVICES DELIVERED WITH TELEHEALTH TECHNOLOGIES.

''(a) IN GENERAL.—The Director of the National Institute of Mental Health, in consultation with the Director of the Office of Rural Health Policy, shall carry out activities to research the efficacy and effectiveness of mental health services delivered remotely by a qualified mental health professional (psychiatrist or doctoral level psychologist) using telehealth technologies.

''(b) MANDATORY ACTIVITIES.—Research described in subsection (a) shall include—

''(1) objective measurement of treatment outcomes for individuals with mental illness treated remotely using telehealth technologies as compared to individuals with mental illness treated face-to-face;

''(2) objective measurement of treatment compliance by individuals with mental illness treated remotely using telehealth technologies as compared to individuals with mental illness treated face-to-face; and

''(3) any other variables as determined by the Director.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

carry out this section such sums as may be necessary.

"SEC. 330L. MENTAL HEALTH SERVICES DELIVERED VIA TELEHEALTH.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Office for the Advancement of Telehealth of the Health Resources and Services Administration, shall award grants to eligible entities to establish demonstration projects for the provision of mental health services to special populations as delivered remotely by qualified mental health professionals using telehealth and for the provision of education regarding mental illness as delivered remotely by qualified mental health professionals and qualified mental health education professionals using telehealth.

''(2) NUMBER OF DEMONSTRATION PROJECTS.—Ten grants shall be awarded under paragraph (1) to provide services for the children and adolescents described in subsection (d)(1)(A) and not less than 6 of such grants shall be for services rendered to individuals in rural areas. Ten grants shall also be awarded under paragraph (1) to provide services for the elderly described in subsection (d)(1)(B) in rural areas. If the maximum number of grants to be awarded under paragraph (1) is not awarded, the Secretary shall award the remaining grants in a manner that is equitably distributed between the populations described in subparagraphs (A) and (B) of subsection (d)(1).

''(b) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a public or nonprofit private telehealth provider network which has as part of its services mental health services provided by qualified mental health providers.

''(2) QUALIFIED MENTAL HEALTH EDUCATION PROFESSIONALS.—The term 'qualified mental health education professionals' refers to teachers, community mental health professionals, nurses, and other entities as determined by the Secretary who have additional training in the delivery of information on mental illness to children and adolescents or who have additional training in the delivery of information on mental illness to the elderly.

''(3) QUALIFIED MENTAL HEALTH PROFESSIONALS.—The term 'qualified mental health professionals' refers to providers of mental health services currently reimbursed under medicare who have additional training in the treatment of mental illness in children and adolescents or who have additional training in the treatment of mental illness in the elderly.

''(4) SPECIAL POPULATIONS.—The term 'special populations' refers to the following 2 distinct groups:

''(A) Children and adolescents located in primary and secondary public schools in mental health underserved rural areas or in mental health underserved urban areas.

''(B) Elderly individuals located in long-term care facilities in mental health underserved rural areas.

''(5) TELEHEALTH.—The term 'telehealth' means the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health, and health administration.

''(c) AMOUNT.—Each entity that receives a grant under subsection (a) shall receive not less than $1,500,000 with no more than 40 percent of the total budget outlined for equipment.

''(d) USE OF FUNDS.—

''(1) IN GENERAL.—An eligible entity that receives a grant under this section shall use such funds—

''(A) for the populations described in subsection (b)(3)(A)—

''(i) to provide mental health services, including diagnosis and treatment of mental illness, in primary and secondary public schools as delivered remotely by qualified mental health professionals using telehealth;

''(ii) to provide education regarding mental illness (including suicide and violence) in primary and secondary public schools as delivered remotely by qualified mental health professionals and qualified mental health education professionals using telehealth, including early recognition of the signs and symptoms of mental illness, and instruction on coping and dealing with stressful experiences of childhood and adolescence (such as violence, social isolation, and depression); and

''(iii) to collaborate with local public health entities and the eligible entity to provide the mental health services; and

''(B) for the populations described in subsection (b)(3)(B)—

''(i) to provide mental health services, including diagnosis and treatment of mental illness, in long-term care facilities as delivered remotely by qualified mental health professionals using telehealth;

''(ii) to provide education regarding mental illness to primary staff (including physicians, nurses, and nursing aides) as delivered remotely by qualified mental health professionals and qualified mental health education professionals using telehealth, including early recognition of the signs and symptoms of mental illness, and instruction on coping and dealing with stressful experiences of old age (such as loss of physical and cognitive capabilities, death of loved ones and friends, social isolation, and depression); and

''(iii) to collaborate with local public health entities and the eligible entity to provide mental health services.

''(2) OTHER USES.—An eligible entity receiving a grant under this section may also use funds to—

''(A) acquire telehealth equipment to use in primary and secondary public schools and long-term care facilities for the purposes of this section;

''(B) develop curriculum to support activities described in subsections (d)(1)(A)(ii) and (d)(1)(B)(ii);

''(C) pay telecommunications costs; and

''(D) pay qualified mental health professionals and qualified mental health education professionals on a reasonable cost basis as determined by the Secretary for services rendered.

''(3) PROHIBITED USES.—An eligible entity that receives a grant under this section shall not use funds received through such grant to—

''(A) purchase or install transmission equipment (other than such equipment used by qualified mental health professionals to deliver mental health services using telehealth under the project); or

''(B) build upon or acquire real property (except for minor renovations related to the installation of reimbursable equipment).

''(e) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure, to the greatest extent possible, that such grants are equitably distributed among geographical regions of the United States.

''(f) APPLICATION.—An entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary determines to be reasonable.

''(g) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall prepare and submit a report to the appropriate committees of Congress that shall evaluate activities funded with grants under this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $30,000,000 for fiscal year 2002 and such sums that are required to carry out this program for fiscal years 2003 through 2009.

''(i) SUNSET PROVISION.—This section shall be effective for 7 years from the date of enactment of this section.''.

NAMI, NATIONAL ALLIANCE FOR THE MENTALLY ILL,
Arlington, VA, May 7, 2001.

Hon. CRAIG THOMAS,
U.S. Senate, Hart Office Building,
Washington, DC.

DEAR SENATOR THOMAS: on behalf of the 220,000 members and 1,200 affiliates of the National Alliance for the Mentally Ill (NAMI), I am pleased to offer our support for the Rural Mental Health Accessibility Act of 2001. As the nation's largest organization representing children and adults with severe mental illnesses and their families, NAMI is pleased to support this important legislation. Thank you for your leadership in bringing this bipartisan measure forward.

Accessing mental illness treatment and services is a particular challenge for individuals living in isolated rural communities. The challenges related to geographic isolation are too often further compounded by the stigma associated with severe mental illnesses such as schizophrenia, bipolar disorder, major depression and severe anxiety disorders. Advances in scientific research and medical treatment for these serious brain disorders have been tremendous in recent years. Your legislation will bring these advances in research and treatment to underserved rural areas. The initiatives contained in the rural Mental Health Accessibility Act—community education to address stigma, training for providers, funding for a telehealth services program—are an important step forward for expanding access to treatment in sparsely populated regions of our country. NAMI looks forward to working with you to ensure passage of this legislation in 2001.

Thank you for your leadership on this important issue for individuals with severe mental illnesses and their families.

Sincerely,

JACQUELINE SHANNON
President.

NATIONAL RURAL HEALTH ASSOCIATION,
Washington, DC, May 4, 2001.

Hon. CRAIG THOMAS,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR THOMAS: on behalf of the National Rural Health Association, I would like to convey our strong support for the Rural Mental Health Accessibility Act of 2001.

While a lack of primary care services in rural and frontier areas has long been acknowledged, the scarcity of rural mental health services has only recently received increased attention. At the end of 1997, 76% of designated mental health professional shortage areas were located in nonmetropolitan areas with a total population of over 30 million Americans.

The Rural Mental Health Accessibility Act of 2001 would provide important first steps toward increased access to mental health care services in rural and frontier areas. The stigma associated with having a mental disorder and the lack of anonymity in small rural communities leads to under-diagnosis and under-treatment of mental disorders among rural residents. Your legislation

would address this problem by creating a Mental Health Community Education Program aimed at reducing the stigma and misinformation surrounding mental health care.

In many rural and frontier communities, primary care providers by necessity are responsible for the delivery of mental health services. Because primary care providers often lack specific mental health training, interdisciplinary collaboration and training would increase access for rural residents to appropriate mental health care treatment. The interdisciplinary training grant program created by your legislation would increase collaboration and sharing of information between mental health providers and primary care providers and improve care for rural residents.

The NRHA appreciates your ongoing leadership on rural health issues, and stands ready to work with you on enactment of the Rural Mental Health Accessibility Act of 2001, which would increase the availability of mental health care in rural and frontier areas.

Sincerely,

CHARLOTTE HARDT,
President.

Mr. CONRAD. Mr. President, today I am pleased to join my colleagues as a cosponsor of the Rural Mental Health Accessibility Act of 2001. This bipartisan effort would take important steps toward improving access to mental health care in rural America.

This issue is particularly important to me and my constituents in North Dakota. Sadly, as compared to the rest of the United States, North Dakota has the second-highest suicide rate among children ages 10 through 14, and the sixth-highest suicide rate among teenagers 15 through 19 years of age. As a result, over the 10 year period from 1987 to 1996, the percentage of deaths due to suicide among North Dakota's children and teens was double the national average. Clearly, suicide makes a much greater impact on child mortality in North Dakota than it does in the rest of the United States, and it is a leading cause of death in this age group.

In the vast majority of cases, suicide is directly related to mental illness, particularly mood disorders such as depression. Depressive symptoms are remarkably common in North Dakota's school-age children, with one screening finding that 21 percent of students had mild depression and 5 percent had moderate-to-severe depression. This level of depression is likely a contributing factor to the 2,600 suicide attempts by North Dakota's teens reported in 1999.

North Dakota is not alone in this crisis. Rather, it is one of a group of western and Plains states that have elevated youth suicide rates. As agricultural difficulties continue to plague rural areas, the stress on families and individuals grows greater with each passing season. Farm financial stress has been related to individual psychological problems and an increased risk of mental disorders, including depression, substance abuse, and suicide.

It is important to keep in mind that rural areas have a prevalence of mental illness similar to urban areas. The difference is that people in rural areas have less access to health care, especially mental health care. Availability of mental health treatment is scarce in remote rural areas. Additionally, there remains a strong stigma surrounding mental illness and its treatment. The bill we introduce today would address both of these problems: reducing the stigma and increasing access to mental health services in rural areas.

Our bill addresses the problem of stigma through $50 million in grants designed to support community mental health education programs. Existing state and community efforts could be sustained and expanded through these grants, and new efforts could obtain early support. In addition, our bill establishes $30 million in demonstration projects for the provision of mental health education in rural public schools and nursing homes using televideoconferencing technology. Rural schools and nursing homes would have access to information regarding mental illness, information that would reduce stigma, enhance understanding, and increase recognition of mental disorders. Importantly, suicide education and prevention are to be key parts of these programs.

Other provisions of our bill address the access problem to mental health services found in the majority of rural communities. Since mental health care in rural communities is often provided solely by primary care clinics, our bill establishes a $150 million grant program to foster close interaction between mental health professionals and primary care physicians. The grants would be available to public universities or educational institutions to develop side-by-side training programs for mental health care professionals and primary care providers. These provider teams would give care to patients in underserved, rural areas without regard to the patient's ability to pay for such services. It is expected that primary care providers participating in such a training program would develop greater comfort and improved coordination with colleagues in treating mental illness in rural settings.

Finally, our bill would increase access to mental health care professionals by taking advantage of the latest telehealth technologies. Our bill would fund telehealth demonstration projects that would be focused on providing mental health services to hard-to-reach populations, such as children, adolescents, and the elderly. These individuals would be able to receive mental health services in convenient sites, such as rural public schools and nursing homes.

It is my hope that the Rural Mental health Accessibility Act will strengthen existing community efforts to fight mental illness while encouraging the formation of new and innovative programs. I am pleased to join Senator THOMAS and others in this effort. I urge my colleagues to support this important legislation.

By Mr. GRASSLEY (for himself, Mr. BINGAMAN, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. CONRAD, Mr. BREAUX, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. BAUCUS, and Mrs. LINCOLN):

S. 860. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, the U.S. Postal Service provides a vital and important communication link for the Nation and the citizens of my home state of Iowa. Rural Letter Carriers play a special role and have a proud history as an important link in assuring the delivery of our mail. Rural Carriers first delivered the mail with their own horses and buggies, later with their own motorcycles, and now in their own cars and trucks. They are repsonsible for maintenance and operation of their vehicles in all types of weather and road conditions. In the winter, snow and ice is their enemy, while in the spring, the melting snow and ice causes potholes and washboard roads. In spite of these quite adverse conditions, rural letter carriers daily drive over 3 million miles and serve 24 million American families on over 66,000 routes.

Although the mission of rural carriers has not changed since the horse and buggy days, the amount of mail they deliver has changed dramatically. As the Nation's mail volume has increased throughout the years, the Postal Service is now delivering more than 200 billion pieces of mail a year. The average carrier delivers about 2,300 pieces of mail a day to about 500 addresses.

Most recently, e-commerce has changed the type of mail rural carriers deliver. This fact was confirmed in a recent GAO study entitled ''U.S. Postal Service: Challenges to Sustaining Performance Improvements Remain Formidable on the Brink of the 21st Century,'' dated October 21, 1999. As this report explains, the Postal Service expects declines in its core business, which is essentially letter mail, in the coming years. The growth of e-mail on the Internet, electronic communications, and electronic commerce has the potential to substantially affect the Post Service's mail volume.

First-Class mail has always been the bread and butter of the Postal Service's revenue, but the amount of revenue from First-Class letters is declining. E-commerce is providing the Postal Service with another opportunity to increase another part of its business. That's because what individuals and companies order over the Internet must be delivered, sometimes by the Postal Service and often by rural carriers. Currently, the Postal Service has about 33 percent percent of the parcel business. Carriers are not delivering larger volumes of business mail, parcels, and priority mail packages. But, more parcel business will mean more cargo capacity will be necessary in postal delivery vehicles, especially in

those owned and operated by rural letter carriers.

When delivering greeting cards or bills, or packages ordered over the Internet, Rural Letter Carriers use vehicles they currently purchase, operate and maintain. In exchange, they receive a reimbursement from the Postal Service. This reimbursement is called an Equipment Maintenance Allowance (EMA). Congress recognizes that providing a personal vehicle to deliver the U.S. Mail is not typical vehicle use. So, when a rural carrier is ready to sell such a vehicle, it's going to have little trade-in value because of the typically high mileage, extraorindary wear and tear, and the fact that it is probably right-hand drive. Therefore, Congress intended to exempt the EMA allowance from taxation in 1988 through a specific provision for rural mail carriers in the Technical and Miscellaneous Revenue Act of 1988.

That provision allowed an employee of the U.S. Postal Service who was involved in the collection and delivery of mail on a rural route, to compute their business use mileage deduction as 150 percent of the standard mileage rate for all business use mileage. As an alternative, rural carrier taxpayers could elect to utilize the actual expense method, business portion of actual operation and maintenance of the vehicle, plus depreciation. If EMA exceeded the allowable vehicle expense deductions, the excess was subject to tax. If EMA fell short of the allowable vehicle expenses, a deduction was allowed only to the extent that the sum of the shortfall and all other miscellaneous itemized deductions exceeded two percent of the taxpayer's adjusted gross income.

The Taxpayer Relief Act of 1997 further simplified the tax returns of rural letter carriers. That Act permitted the EMA income and expenses ''to wash,'' so that neither income nor expenses would have to be reported on a rural letter carrier's return. That simplified taxes for approximately 120,000 taxpayers, but the provision eliminated the option of filing the actual expense method for employee business vehicle expenses. The lack of this option, combined with the dramatic changes the Internet is having on the mail, specifically on rural carriers and their vehicles, is a problem I believe Congress can and must address.

The mail mix is changing and already Postal Service management has, understandably, encouraged rural carriers to purchase larger right-hand drive vehicles, such as Sports Utility Vehicles, SUVs, to handle the increase in parcel loads. Large SUVs are much more expensive than traditional vehicles, so without the ability to use the actual expense method and depreciation, rural carriers must use their salaries to cover vehicle expenses. Additionally, the Postal Service has placed 11,000 postal vehicles on rural routes, which means those carriers receive no EMA.

These developments have created a situation that is contrary to the historical congressional intent of using reimbursement to fund the government service of delivering mail, and also has created an inequitable tax situation for rural carriers. If actual business expenses exceed the EMA, a deduction for those expenses should be allowed. To correct this inequity, I am introducing a bill today that reinstates the ability of a rural letter carrier to choose between using the actual expense method for computing the deduction allowable for business use of a vehicle, or using the current practice of deducting the reimbursed EMA expenses.

Rural carriers perform a necessary and valuable service and face many changes and challenges in this new Internet era. We must make sure that these public servants receive fair and equitable tax treatment as they perform their essential role in fulfilling the Postal Service's mandate of binding the Nation together.

I urge my colleagues to join Senators BINGAMAN, MURKOWSKI, JEFFORDS, CONRAD, BREAUX, ROCKEFELLER, DASCHLE, BAUCUS, LINCOLN and myself in sponsoring this legislation.

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. 860

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

SECTION 1. CERTAIN EXPENSES OF RURAL LETTER CARRIERS.

(a) IN GENERAL.—Section 162(o) of the Internal Revenue Code of 1986 (relating to treatment of certain reimbursed expenses of rural mail carriers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

''(2) SPECIAL RULE WHERE EXPENSES EXCEED REIMBURSEMENTS.—Notwithstanding paragraph (1)(A), if the expenses incurred by an employee for the use of a vehicle in performing services described in paragraph (1) exceed the qualified reimbursements for such expenses, such excess shall be taken into account in computing the miscellaneous itemized deductions of the employee under section 67.''

(b) CONFORMING AMENDMENT.—The heading for section 162(o) is amended by striking ''REIMBURSED''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Mr. BINGAMAN. Mr. President, I rise today to introduce this important legislation with the Chairman of the Finance Committee and several of our colleagues that would reduce the costs incurred by rural letter carriers by allowing them to deduct the actual expenses they incur when using their own vehicle to deliver the mail. For many years, rural letter carriers were allowed to calculate their deductible expenses by using either a special formula or keeping track of their costs. In 1997, Congress simplified the tax treatment for letter carriers, but disallowed them the ability to use the actual expense method (business portion of actual operation and maintenance of the vehicle, plus depreciation) for calculating their costs. The result is that many letter carriers are unable to account for the real expenses they incur when using their own vehicle to deliver the mail. This problem has been exasperated by the increased need for larger vehicles by rural letter carriers, in part, due to the volume and size of parcels. Road conditions and severe weather have also increased vehicle costs because of the necessity to have an SUV or four wheel drive vehicle. These letter carriers must often purchase special vehicles with right hand drive capabilities which are more expensive than the regular counterpart and may have little to no value when it is time to trade them in for a new one. It is important that these mail carriers are not forced to pay these costs out of their own pockets.

Although the internet has made the world seem smaller, purchased goods must still be delivered. The benefits of internet purchases in remote locations is limited if the purchased item cannot be delivered. For this reason, in rural states, such as New Mexico, these letter carriers play an important role in delivering the majority of the state's mail and parcels. On a daily basis, across the nation rural letter carriers drive over 3 million miles delivering mail and parcels to over 30 million families. We need to be sure that we have not created a tax impediment for these dedicated individuals. I look forward to working with the Chairman and my colleagues to get this legislation passed this year.

By Mr. BOND:

S. 861. A bill to enhance small business access to Federal contracting opportunities and provide technical advice and support that small businesses need to perform contracts awarded to them, and for other purposes; to the Committee on Small Business.

Mr. BOND. Mr. President, today I offer a bill to take a successful pilot program at the Department of Defense, make it permanent, and extend it governmentwide. For the past decade, DOD has had a program in place to try to develop and maintain small business vendors as a vital part of our Nation's defense industrial base. This program, the Mentor-Protégé program, has also been a principal source of opportunity for small business, to offset some of the other Federal procurement practices that have squeezed small business out of contracting.

Those two goals, the enhanced vendor base and improved opportunity, are worth emphasizing before I discuss the specific provisions of this bill. Why is small business participation in contracting important?

Far too often, small business is seen as just another social or economic development program. In Federal contracting, however, it is much more than that. Small business is a critical, vital, indispensable part of our nation's preparedness for its defense.

We have been working here in the Senate toward trying to shore up our defense preparedness. For the better part of a decade, DOD has had more and more missions with fewer and fewer resources. Now that we are trying to overcome this neglect with additional funding, we must also ensure that our economic base is strong, as well. It will do little good to have the money to buy defense-related goods and services if there are no vendors available to sell them.

The DOD Office of Small and Disadvantaged Business Utilization has an excellent slogan that drives this point home. ''Small Business: A Readiness Multiplier.''

So, keeping small business involved in contracting is a matter of self-interest for our Nation. It is a matter of having the goods, the services, the resources for the warfighter to take into battle.

Second, small business must have access to contracting as a matter of economic opportunity. The Government is an enormous customer. It averages about $180 to $190 billion worth of contracting every year. No one else has that kind of presence in the marketplace.

If the Government spends the lion's share of its money on a handful of large insider corporations, it distorts the marketplace. It tends to give unfair advantage to the winning firms, purely because of the Government's enormous purchasing power.

To avoid harming our economy with that kind of market distortion, the small business program seeks to disperse Government contracts among a variety of vendors. The small business program is not so much an intervention in the economy as it is a dilution of the distortion that would otherwise occur.

Unfortunately, over the last decade the Government has increasingly squeezed small business out of contracting. As part of the ''Reinventing Government'' effort, acquisition has been streamlined.

Now, I don't mean to suggest that all acquisition reform has been harmful. In fact, burdensome processes and bureaucracy also tend to discourage small business. Large businesses are more likely to have lawyers and contracting staff to wade through the bureaucracy, so excessive emphasis on process tends to crowd out small business.

But in some areas we have gone too far. Contract bundling is a good example of this. By rolling several small contracts into large packages, the Government has made things simpler and faster for the contracting officers. It is administratively simpler to handle one bundled contract than ten smaller ones.

However, that often crowds out small business. A small business owner looks at one of these huge contracts and says, ''Even if I won that contract, I couldn't carry it out. It's too big, and the requirements are too complex.'' So she, and it is often women business owners that suffer, she doesn't even bother to bid.

Those two issues, the need to improve opportunity and to strengthen our defense vendor base, show why we need to take specific steps to restore small business access to procurement opportunities.

Fortunately, we have a successful model to build upon!

In the Fiscal 1991 defense authorization bill, the Congress adopted a provision to help small firms develop the technical infrastructure necessary to perform Federal contracts effectively. This pilot program, the Mentor-Protégé program, provided for prime contractors either to be reimbursed for their added costs in providing technical assistance to small firms, or to receive credit for accomplishing their subcontracting plans in lieu of reimbursement.

Experience under the Mentor-Protégé pilot program has been very positive. We have learned a lot about what it takes to get small businesses ready to be serious players in Federal procurement. For firms that are simply delivering a specific order for a product, performing on that delivery order is often simple enough.

But longer term, larger contracts are more complex. They require sustained effort over many months or years. They require a firm to commit to and achieve intermediate milestones on time. They require the firm to maintain quality assurance standards month in and month out, year in and year out. This can be extraordinarily challenging.

Mentor firms have demonstrated that they can help train small protégé firms to develop that infrastructure, so necessary to be successful in larger Federal contracts.

I have a case history right here that I call to the attention of my colleagues. Scott Ulvi, of Anteon Corporation, has written me about his experience in mentoring, and Ray Lopez, of Engineering Services Network, has written about the value of the training and assistance he received from Anteon. I call particular attention to Mr. Lopez' experience in successfully receiving Federal contracts, only to have the reality sink in that he was originally unprepared to carry them out. His experience is truly instructive of what small business owners encounter daily, and I call his letter to the attention of my colleagues. I will ask unanimous consent that both letters be inserted into the RECORD at the conclusion of my remarks.

The bill I am offering today would build upon the experience with the DOD program and make it governmentwide. Specifically, the Administrator of the Small Business Administration would be charged with developing a governmentwide program that would provide assistance to all types of firms targeted for special procurement procedures under the Small Business Act.

Now, it would not be possible for the SBA to manage every Mentor-Protégé relationship in the Federal Government. It would be administratively impossible. Thus, my bill calls for the Administrator to develop a core Mentor-Protégé program, applicable across the Government, and to reimburse part of the expenses of agencies that agree to adopt the SBA program. Agencies would administer the program in-house, but would apply to be reimbursed for up to 50 percent of certain expenses incurred in a program that conforms to the Administrator's guidelines.

The expenses to be partially reimbursed are those for which an agency reimburses the mentoring firms. Mentor firms can get reimbursed from the contracting office for added costs they incur in providing technical, managerial, and developmental assistance to the protégé firm. Under this bill, up to 50 percent of these costs would then in turn be reimbursed to the agency from the SBA. The technical assistance provided through this reimbursable program is far and away the most valuable, as the letter from Scott Ulvi of Anteon Corporation describes. This program seeks to help agencies put together the resources they need to make such reimbursements.

This program will help all agencies of the Government strengthen their vendor base, just as it has for the Department of Defense. It will help small businesses develop their abilities to compete for larger contracts, and the taxpayer will be the ultimate winner as a result of that competition. It also meets one of the Bush administration's goals, as described in the recent budget submission, of reducing fragmentation among Federal programs by ensuring a uniform, core Mentor-Protégé program across the Government.

Nothing succeeds like success. The DOD Mentor-Protégé program, adopted as a pilot in 1991, has been such a success. Now we need to learn from that success and make it available across the Government. My bill proposes to do exactly that and I ask unanimous consent that the text of the bill and supporting letters be printed in the RECORD.

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

S. 861

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 ''Governmentwide Mentor-Protege Program Act of 2001''.

SEC. 2. MENTOR-PROTEGE PROGRAM.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 36 as section 37; and

(2) by inserting after section 35 the following:

''SEC. 36. MENTOR-PROTEGE PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a Program to be

known as the 'Governmentwide Mentor-Protege Program'.

''(b) PURPOSES.—The purposes of the Program are to provide—

''(1) incentives for major Federal contractors to assist eligible small business concerns to enhance the capabilities of eligible small business concerns to perform as subcontractors and suppliers under Federal contracts in order to increase the participation of eligible small business concerns as subcontractors and suppliers under those contracts; and

''(2) Governmentwide criteria for partial reimbursement of certain agency costs incurred in the administration of the Program.

''(c) PROGRAM PARTICIPANTS.—

''(1) MENTOR FIRMS.—A mentor firm may enter into agreements under subsection (e) and furnish assistance to eligible small business concerns upon making application to the head of the agency for which it is contracting and being approved for participation in the Program by the head of the agency.

''(2) ELIGIBLE SMALL BUSINESS CONCERNS.—

''(A) IN GENERAL.—An eligible small business concern may obtain assistance from a mentor firm upon entering into an agreement with the mentor firm to become a protege firm, as provided in subsection (e).

''(B) RESTRICTION.—A protege firm may not be a party to more than one agreement to receive assistance described in subparagraph (A) at any time.

''(3) CERTIFICATION.—

''(A) IN GENERAL.—Before receiving assistance from a mentor firm under this section, a small business concern shall furnish to the mentor firm—

''(i) if the Administration regularly issues certifications of qualification for the category of that small business concern listed in subsection (k)(1), that certification; and

''(ii) if the Administration does not regularly issue certifications of qualification for the category of that small business concern listed in subsection (k)(1), a statement indicating that it is an eligible small business concern.

''(B) DEVELOPMENT OF CERTIFICATION.—Nothing in this section shall be construed to require the Administration to develop a certification program for any category of small business concern listed in subsection (k)(1).

''(C) ASSISTANCE TO NON-ELIGIBLE SMALL BUSINESS CONCERN.—If at any time, a small business concern is determined by the Administration not to be an eligible small business concern in accordance with this section—

''(i) the small business concern shall immediately notify the mentor firm of the determination; and

''(ii) assistance furnished to that small business concern by the mentor firm after the date of the determination may not be considered to be assistance furnished under the Program.

''(d) MENTOR FIRM ELIGIBILITY.—

''(1) IN GENERAL.—Subject to subsection (c)(1), a mentor firm that is eligible for award of Federal contracts may enter into an agreement with one or more protege firms under subsection (e) and provide assistance under the Program pursuant to that agreement, if the mentor firm demonstrates to the subject agency the capability to assist in the development of protege firms.

''(2) PRESUMPTION OF CAPABILITY.—A mentor firm shall be presumed to be capable under paragraph (1) if the total amount of contracts and subcontracts that the mentor firm has entered into with the subject agency exceeds an amount determined by the Administrator, in consultation with the head of the subject agency, to be significant relative to the contracting volume of the subject agency.

''(e) MENTOR-PROTEGE AGREEMENT.—

''(1) IN GENERAL.—Before providing assistance to a protege firm under the Program, a mentor firm shall enter into a mentor-protege agreement with the protege firm regarding the assistance to be provided by the mentor firm.

''(2) CONTENTS OF AGREEMENT.—The agreement required by paragraph (1) shall include—

''(A) a developmental program for the protege firm, in such detail as may be reasonable, including—

''(i) factors to assess the developmental progress of the protege firm under the Program; and

''(ii) the anticipated number and type of subcontracts to be awarded to the protege firm;

''(B) a Program participation term of not longer than 3 years, except that the term may be for a period of not longer than 5 years if the Administrator determines, in writing, that unusual circumstances justify a Program participation term of longer than 3 years; and

''(C) procedures for the protege firm to terminate the agreement voluntarily and for the mentor firm to terminate the agreement for cause.

''(f) FORMS OF ASSISTANCE.—A mentor firm may provide to a protege firm—

''(1) assistance using mentor firm personnel, in—

''(A) general business management, including organizational management, financial management, and personnel management, marketing, business development, and overall business planning;

''(B) engineering and technical matters, including production, inventory control, and quality assurance; and

''(C) any other assistance designed to develop the capabilities of the protege firm under the developmental program referred to in subsection (e)(2)(A);

''(2) the award of subcontracts on a noncompetitive basis under Federal contracts;

''(3) progress payments for performance of the protege firm under a subcontract referred to in paragraph (2), in amounts as provided for in the subcontract, except that no such progress payment may exceed 100 percent of the costs incurred by the protege firm for the performance;

''(4) advance payments under subcontracts referred to in paragraph (2);

''(5) loans;

''(6) cash in exchange for an ownership interest in the protege firm, not to exceed 10 percent of the total ownership interest;

''(7) assistance obtained by the mentor firm for the protege firm from—

''(A) small business development centers established pursuant to section 21;

''(B) entities providing procurement technical assistance pursuant to chapter 142 of title 10, United States Code; or

''(C) a historically Black college or university or a minority institution of higher education.

''(g) INCENTIVES FOR MENTOR FIRMS.—

''(1) REIMBURSEMENT FOR PROGRESS OR ADVANCE PAYMENT.—The head of the agency for which a mentor firm is contracting may provide to a mentor firm reimbursement for the total amount of any progress payment or advance payment made under the Program by the mentor firm to a protege firm in connection with a Federal contract awarded to the mentor firm.

''(2) REIMBURSEMENT FOR MENTORING ASSISTANCE.—

''(A) MENTOR FIRM.—The head of the agency for which a mentor firm is contracting may provide to a mentor firm reimbursement for the costs of the assistance furnished to a protege firm pursuant to paragraphs (1) and (7) of subsection (f), as provided for in a line item in a Federal contract under which the mentor firm is furnishing products or services to the agency, subject to a maximum amount of reimbursement specified in the contract, except that this subparagraph does not apply in a case in which the head of the agency determines in writing that unusual circumstances justify reimbursement using a separate contract.

''(B) TOTAL AMOUNT OF REIMBURSEMENT.—The total amount reimbursed under subparagraph (A) to a mentor firm for costs of assistance furnished in a fiscal year to a protege firm may not exceed $1,000,000, except in a case in which the head of the subject agency determines in writing that unusual circumstances justify reimbursement of a higher amount.

''(C) REIMBURSEMENT TO AGENCY.—The head of an agency may submit documentation to the Administrator indicating the total amount of reimbursement that the agency paid to each mentor firm under this paragraph, and the agency shall be reimbursed by the Administration for not more than 50 percent of that total amount, as indicated in the documentation.

''(3) COSTS NOT REIMBURSED.—

''(A) IN GENERAL.—

''(i) CREDIT.—Costs incurred by a mentor firm in providing assistance to a protege firm that are not reimbursed pursuant to paragraph (2) shall be recognized as credit in lieu of subcontract awards for purposes of determining whether the mentor firm attains a subcontracting participation goal applicable to the mentor firm under a Federal contract or under a divisional or companywide subcontracting plan negotiated with an agency.

''(ii) SUBJECT AGENCY AUTHORITY.—Clause (i) shall not be construed to authorize the negotiation of divisional or companywide subcontracting plans by an agency that did not have such authority before the date of enactment of the Governmentwide Mentor-Protege Program Act of 2001.

''(B) AMOUNT OF CREDIT.—The amount of the credit given to a mentor firm for unreimbursed costs described in subparagraph (A) shall be equal to—

''(i) 4 times the total amount of the unreimbursed costs attributable to assistance provided by entities described in subsection (f)(7);

''(ii) 3 times the total amount of the unreimbursed costs attributable to assistance furnished by the employees of the mentor firm; and

''(iii) 2 times the total amount of any other unreimbursed costs.

''(C) ADJUSTMENT OF CREDIT.—Under regulations issued by the Administrator pursuant to subsection (j), the head of the subject agency shall adjust the amount of credit given to a mentor firm pursuant to subparagraphs (A) and (B) of this paragraph, if the head of the subject agency determines that the performance of the mentor firm regarding the award of subcontracts to eligible small business concerns has declined without justifiable cause.

''(h) ADMINISTRATIVE PROVISIONS.—

''(1) DEVELOPMENTAL ASSISTANCE.—For purposes of this Act, no determination of affiliation or control (either direct or indirect) may be found between a protege firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to the protege firm pursuant to a mentor-protege agreement under this section any form of developmental assistance described in subsection (f).

''(2) PARTICIPATION IN PROGRAM.—Notwithstanding section 8, the Administration may not determine an eligible small business concern to be ineligible to receive any assistance authorized under this Act on the basis

that the small business concern has participated in the Program, or has received assistance pursuant to any developmental assistance agreement authorized under the Program.

''(3) ADMINISTRATION REVIEW.—

''(A) IN GENERAL.—Upon determining that the mentor-protege program administered by the subject agency conforms to the standards set forth in the rules issued under subsection (j)(1), the Administrator may not require a small business concern that is entering into, or has entered into, an agreement under subsection (e) as a protege firm, or a firm that makes an application under subsection (c)(1), to submit the application, agreement, or any other document required by the agency in the administration of the Program to the Administration for review, approval, or any other purpose.

''(B) EXCEPTION.—The Administrator may require submission for review of an agreement entered into under subsection (e), or application submitted under subsection (c)(1), if the agreement or application relates to—

''(i) a mentor-protege program administered by the agency that does not conform to the standards set forth in the rules issued under subsection (j)(1); or

''(ii) a claim for reimbursement of costs submitted by an agency to the Administration under subsection (g)(2)(C) that the Administrator has reason to believe is not authorized under this section.

''(i) PARTICIPATION IN PROGRAM NOT TO BE A CONDITION FOR AWARD OF A CONTRACT OR SUBCONTRACT.—A mentor firm may not require a small business concern to enter into an agreement with the mentor firm pursuant to subsection (e) as a condition for being awarded a contract by the mentor firm, including a subcontract under a contract awarded to the mentor firm.

''(j) REGULATIONS.—

''(1) PROPOSED RULES.—Not later than 270 days after the date of enactment of the Governmentwide Mentor-Protege Program Act of 2001, the Administrator shall issue final rules to carry out this section .

''(2) PROPOSED RULES FROM THE FEDERAL ACQUISITION REGULATORY COUNCIL.—Not later than 180 days after the date of issuance of the final rules of the Administration under paragraph (1), the Federal Acquisition Regulatory Council shall publish final rules that conform to the final rules issued by the Administration .

''(k) DEFINITIONS.—In this section—

''(1) the term 'eligible small business concern' means—

''(A) any qualified HUBZone small business concern, as defined in section 3(p)(5);

''(B) any small business concern that is owned and controlled by women, as defined in section 3(n);

''(C) any small business concern that is owned and controlled by socially and economically disadvantaged individuals, as defined in section 8(a)(4); and

''(D) any small business concern that is owned and controlled by service-disabled veterans, as defined in section 3(q)(2);

''(2) the term 'historically Black college and university' means any of the historically Black colleges and universities referred to in section 2323 of title 10, United States Code;

''(3) the term 'mentor firm' means a business concern that—

''(A) meets the requirements of subsection (d); and

''(B) is approved for participation in the Program under subsection (c)(1);

''(4) the term 'minority institution of higher education' means an institution of higher education with a student body that reflects the composition specified in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)(3), (4), (5));

''(5) the term 'Program' means the Mentor-Protege Program established under this section;

''(6) the term 'protege firm' means an eligible small business concern that receives assistance from a mentor firm under this section; and

''(7) the term 'subcontracting participation goal', with respect to a Federal Government contract, means a goal for the extent of the participation by eligible small business concerns in the subcontracts awarded under such contract, as established by the Administrator and the subject agency head, in accordance with the goals established pursuant to section 15(g).

''(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2002 through 2004.''.

ANTEON CORPORATION,
Fairfax, VA, April 30, 2001.

Senator CHRISTOPHER S. BOND,
Chairman, Small Business Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATE BOND: Anteon Corporation is a mid-sized Government contractor that has been a Department of Defense Mentor since 1997. This program has enabled Anteon to provide valuable assistance to seven small disadvantaged businesses at critical points in their development. We are committed to the success of our protégé firms and the Mentor-Protégé Program overall. The responsibility of a mentor is a serious one. We recognize this and have established a separate Mentor-Protégé organization dedicated to delivering the highest quality mentoring services. This has been made possible primarily by the reimbursement provided under our Mentor-Protégé Agreements within the DOD. The financial incentives from DOD's program have produced significant results in several of Anteon's Mentor-Protégé Agreements:

Anteon and Engineering Services Network, Inc.—March 2001, DoD Nunn-Perry Award winning team—240% Growth in Revenues in 18 months; 178% Growth in employees; 1,281% return on investment (ROI) since March 1999.

Anteon and CETECH, Inc.—422% Growth in Revenues in 36 months; 400% Growth in employees; 452% ROI over 36 months.

Anteon and DaySys, Inc.—217% improvement in Revenues; 128% improvement in profit from 1999 to 2001 (projected).

While each firm is certainly unique, the common denominator for the success realized under this program, is the owner's recognition of the value of a mentor and a willingness to accept assistance. Anteon's success as a mentor comes from our commitment and dedication to our protégé and the program. Our experience has taught us that a truly successful program must focus on technical development while effectively balancing the infrastructure support so important to small businesses. Technical development is unquestionably the most important component of this program because it increases the value and competitive posture of the protégé to the customer. As a result of the DOD Mentor-Protégé Program our protégés have been able to receive technical development in such critical areas as: ISO 9000 Quality Management System Certification; Software Engineering Institute Capability Maturity Model preparation; and other high technology development in the disciplines of engineering and information technology. These important skills produce significant return to the Federal Government in terms of increased efficiency, lower costs and higher project success rates.

The success of our program is the direct result of knowledge, experience and a great deal of hard work, work that would not have been possible without the support afforded this program by the DOD, both financially and otherwise. This program is what it is today because of the tremendous support and vision of its leaders past and present. Mr. Robert Neal, Mr. George Schultz, and Ms. Janet Koch have shown relentless commitment to the success of the Mentor-Protégé program in DOD and deserve the lion's share of recognition for the program's success. The support of the Congress in reauthorizing this program every year for the last decade speaks volumes of the support received by our Nation's leaders. The support for this program must continue and the program must grow to reach the multitude of deserving small businesses that desperately need the assistance.

Mentor firms like Anteon receive considerable business, social and political value from this program. That value translates directly to the bottom line by taking part in the growth and success of our protégés as business partners and through our active participation in the small business community. My mentor once told me that the highest calling of a leader is to develop others—I truly believe that. My reward for being a mentor is the gratification of knowing that my efforts have helped to develop the business leaders of tomorrow.

Anteon stands ready to assist the Department of Defense, the Congress and the Federal Government in any way possible to ensure the continued success and growth of this most important program.

Sincerely,

M.N. SCOTT ULVI,
Director, Mentor-Protégé Programs.

ENGINEERING SERVICES NETWORK, INC.,
Arlington, VA, April 27, 2001.

Senator CHRISTOPHER S. BOND,
Chairman, Small Business Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOND: I would like to make you aware of what I consider to be the most important small business program currently available to small businesses whether they be minority owned, veteran owned, woman owned, or otherwise. The Mentor-Protégé Program is so important that it transcends personalities, race, creed, color or religion. This program has enabled my firm, Engineering Services Network, Inc., to realize remarkable success in a very short period of time. The Mentor-Protégé Program deserves continued and increasing support from the Federal government and our Executive Branch.

After my retirement from the U.S. Navy in 1994, I considered a career coaching in the secondary education system, I also had an interest in providing high technology services to my former fellow shipmates and the patriots of this great nation. My wife and I made the decision that the transition to a business life would be easier if I could provide services to the organization that meant so much to me for thirty years. Little did I realize the amount of headwork, legwork, anxiety and mental toughness required to enter the field of business. Our first few years became the toughest challenge of our lives. Although I was technically astute in Command, Control, Communication, Combat Systems and the various operational aspects of the United States Navy, I soon realized that I was ill prepared for the challenges presented by owning your own business. I enjoyed a gift that enabled me to bring in business, but quickly found that we lacked the necessary skills and experience within the firm to manage and grow the work that I'd captured. We needed to learn the basic skills of pricing, contract management, and

project management in order to perform successfully. On the business side, the basic and key concepts of developing a solid business plan were foreign to me. The significance and meaning of operating assets and liabilities were as unfamiliar to me as the standard operational procedures of an M1 Tank. I was a warrior, not a businessman.

After two years of slowly building the organization to 18 employees, surviving delivery order to delivery order, and continually asking ourselves whether the effort was worth the reward, two pivotal events occurred:

1. The company received its 8(a) status from the Small Business Administration.

2. We entered into an informal Mentor-Protégé relationship with Anteon Corporation.

The 8(a) program was instrumental in opening doors to market areas in which our corporation would not normally compete. Our informal mentor protégé relationship with Anteon provided us access to training resources that allowed us to understand some of the basic concepts of doing business in the DOD arena. This was an important asset for ESN at such a critical point in our business life.

In 1999 ESN and Anteon took the next natural step in advancing our relationship by entering into a formal Mentor-Protégé relationship through the Defense Information Systems Agency (DISA). In the short four years since its birth, the company had grown to 28 employees and had limped along with limited and inexperienced infrastructure.

The formal Mentor-Protégé relationship established a far more structured and focused approach to assisting ESN with its developmental needs. Our mentor introduced to us cutting edge and critical ideas, not only in technology but in our financial and other responsibilities as a company. They have helped ESN to implement effective management controls including budgeting and financial management and are largely responsible for catalyzing ESN's commitment to achieve ISO 9000 certification in 2001. Our mentor has helped us build a foundation that will take ESN far into the 21st century. After only two short years in our formal Mentor-Protégé relationship with Anteon we employ 87 people, which would not have been possible without our Mentor's help. Our progress was recognized by the Department of Defense in March 2001 with the award of the prestigious Nunn-Perry Award. As a result of the progress we have made, ESN is able to contribute to the Gross National Product and provide outstanding technical and engineering skills to our nation's warfighters. I am now a businessman and former warrior.

Without the Mentor-Protégé Program there would be no ''ESNs'' to contribute to the important cause of keeping our nation safe and free by protecting our country and our national security. As you can tell from this letter, I fully believe in and support the Mentor-Protégé Program, established many years ago by our forward thinking leaders, and willingly respond to any call that will help to continue and improve this program.

Sincerely,

RAYMOND F. LOPEZ, Jr.,
President & CEO.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. GRAHAM, Mr. REID, Mr. BINGAMAN, Mr. KERRY, and Mr. MCCAIN):

S. 862. A bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the ''State Criminal Alien Assistance Program Reauthorization Act of 2001,'' bipartisan legislation that would authorize funds to relieve State and county governments of the some of the high costs of incarcerating persons who enter this country illegally and are later convicted of felonies or multiple misdemeanors. I am pleased to be joined in introducing this bill by Senators JON KYL, BOB GRAHAM, JOHN MCCAIN, HARRY REID, JEFF BINGAMAN, and JOHN KERRY.

The broad principle on which this bill is based is simple: the control of illegal immigration is a Federal responsibility. The Federal government's failure to control illegal immigration, and the financial and human consequences of this failure are, thus, Federal responsibilities as well.

More and more, the fiscal consequences of illegal immigration are being dealt to the states and local counties. The ''State Criminal Alien Assistance Program Reauthorization Act of 2001'' would properly vest the fiscal burden of incarcerating illegal immigrants who commit crimes with the Federal government. It would do this by authorizing up to $750 million for federal reimbursement to the States and county governments for the direct costs associated with incarcerating undocumented felons.

At the initiative of my colleague from Florida, Senator BOB GRAHAM, the Federal government took the first steps in 1994 in addressing these costs by authorizing reimbursements to State and local governments through the State Criminal Alien Assistance Program, SCAAP, established by the Violent Crime and Law Enforcement Act of 1994. Since 1997, the authorization level for SCAAP has been $650 million. Last year, the provision authorizing SCAAP funding through the Violent Crime Reduction Trust Fund expired. Enactment of the reauthorization legislation would constitute an acknowledgment that these costs, though borne by other levels of government, remain the Federal government's obligation.

Winning enactment of this authorization bill is half of what Congress needs to do to provide adequate funding to states and counties for this important program. Congress also must appropriate an adequate level of funding for SCAAP, and my colleagues and I will be working in the Appropriations Committee to assure that this is done.

This bill would help all states that are experiencing increasing costs from incarcerating undocumented felons, both low-impact and high-impact states. Even in historically low impact states and counties SCAAP funding has been on the rise. SCAAP funding to Fairfax County, Virginia, for example, has risen from $14,906 in FY 1999 to $2 million in FY 2000. In the County of Outgamie, Wisconsin, SCAAP funding has jumped from $0 in FY 1999 to $548,458 in FY 2000. In the State of Mississippi, SCAAP funding rose from $47,171 in FY 1999 to $$780,795 in FY 2000.

Clearly, these numbers suggest that the increasing costs to states and local governments for incarcerating criminal aliens is not just a problem for States on the southwest border but, rather, it is a nationwide problem.

High impact States, like California, continue to face extraordinary criminal alien incarceration costs. In February 1997, there were 17,904 undocumented felons in the California correctional system with Immigration and Naturalization Service holds. By the end of February 2001, there were 20,937 illegal alien inmates in the system with INS holds. This year, California taxpayers can expect to spend $576.1 million to pay for what is, indeed, a Federal obligation. In fact, 1995, the first year in which SCAAP funding was awarded, California has spent a total of $3.8 billion in costs directly associated with incarcerating undocumented criminal aliens.

Local counties often shoulder a disproportional share of the burden of criminal aliens as well. In California, for example, counties are responsible for providing local law enforcement, detention, prosecution, probation and indigent defense services. While SCAAP only reimburses a portion of the costs directly related to the incarceration of undocumented criminal aliens, most other indirect criminal justice expenditures, are fully borne by County taxpayers.

Furthermore, while funding levels for SCAAP has remained about the same, the number of local governments applying for the awards has greatly increased over the past few years. In fiscal year 1996, local governments were reimbursed at a rate of approximately 60 percent for the costs of incarcerating criminal aliens convicted of a felony or two or more misdemeanors when only 90 jurisdictions applied for such reimbursement. For fiscal year 2000, 361 local jurisdictions applied for SCAAP funding, and reimbursement amounted to less than 40 percent of the costs incurred by these jurisdictions.

SCAAP funding is especially important to Los Angeles County, which has a larger undocumented immigrant population than any single state except California, and operates the nation's largest local criminal justice system. Los Angeles County also has a violent crime rate which is far higher than the national average, and accounts for about one out of every 16 violent crimes committed in the United States.

A recent study conducted by the Los Angeles County Sheriff's Department concluded that 23 percent of the County's inmate population consisted of criminal aliens in 2000. The study further found that the impact of criminal aliens on the criminal justice system in Los Angeles County had doubled from approximately $75 million in 1990 to more than $150 million in 1999.

There are numerous other jurisdictions in California that are significantly affected by criminal aliens, including the border counties of San Diego and Imperial. Like Los Angeles County, these counties are not being adequately reimbursed for the costs associated with the incarceration of criminal aliens.

In FY 1999 San Diego and Imperial counties spent a combined $56 million on law enforcement and indirect costs involving illegal aliens, whether criminal or not. These costs include criminal alien incarceration, justice and court costs, emergency medical care, autopsies, and burials of indigents. SCAAP compensated these counties for only $8 million or 15 percent of these costs which went solely to the cost of incarcerating criminal aliens.

Border counties, however, are taking a hit in other areas: San Diego, has to spend 7 percent of its total public safety budget to cover other costs, including indigent defense, court and emergency medical costs; Imperial County expends 16 percent of its public safety budget to cover these costs.

The structure of public financing in California makes it extremely difficult for local governments, especially county governments, to increase their sources of revenue. This problem is greatly exacerbated when they are also forced to pay for costs related to the Federal responsibility of controlling illegal immigration.

Without the ability to raise taxes in any significant way to deal with the costs associated with criminal illegal aliens, counties are forced to cut back on other expenditures that would otherwise benefit the legal resident population.

It is unfortunate, that at a time when Congress is concerned about unfunded mandates, the Administration has seen fit to proposed cutting SCAAP funding by almost $300 million for fiscal year 2002. Given the increasing numbers of illegal aliens that California and other states incarcerate each year, the Administration's decision in this regard is perplexing.

If the Administration has its way, States and local counties would face an unfair set of choices with real consequences: either cut other essential local law enforcement programs and community services, or raise local taxes. Neither of these are acceptable options.

I am pleased that this legislation has the support of such organizations as the National Association of Counties and the California Correctional Peace Officers Association. I ask for unanimous consent that their letters in support of this measure be printed in the RECORD.

I also ask unanimous consent that the letter to President Bush, signed by a bipartisan group of Senators, expressing concern about the proposed cuts in SCAAP funding and the text of the bill be printed into the RECORD.

I join my colleagues in introducing the SCAAP reauthorization bill today in hopes that it will go further to alleviate some of the fiscal hardships States and local counties incur when they must take on a Federal responsibility. I look forward to working with my colleagues to move it through the Senate.

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

S. 862

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 ''State Criminal Alien Assistance Program Reauthorization Act of 2001''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2002 THROUGH 2006.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1251(i)(5)) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting ''; and''; and

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

''(G) $750,000,000 for each of fiscal years 2002 through 2006.''.

U.S. SENATE,
Washington, DC, May 8, 2001.

Hon. GEORGE W. BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We write out of deep concern over your Fiscal Year 2002 Budget proposal to cut funding for the State Criminal Alien Assistance Program (SCAAP) by nearly 50 percent. We ask that you reconsider this recommendation and, instead, at a minimum, support funding this program at $750 million. SCAAP is a vitally important program that assists states in recovering the costs associated with the incarceration of criminal aliens. We would strongly oppose cuts in this important program.

As you are well aware, control of our nation's borders is under the exclusive jurisdiction of the Federal government. Unfortunately, Federal efforts are often not adequate to combat illegal immigration. As a consequence, such high impact states as California, Arizona, New Mexico, Texas, Florida, New York, Washington, Nevada and Massachusetts continue to face extraordinary costs associated with incarcerating criminal aliens. Much of these costs are borne by counties, some of which are among the poorest in the nation and traditionally operate with slim budgets and staffing.

By some estimates, the total annual cost to states and county governments exceeds $1.6 billion. In light of this growing burden, your FY 02 budget proposal inexplicably recommends cutting funding for this urgently needed program by $300 million.

Unless the Administration supports and Congress appropriates sufficient funds for SCAAP, our state and local governments will continue to unfairly shoulder the burden of bearing the costs of a Federal responsibility. Given the upward trend in incarceration costs, any shortfall in SCAAP funding would force states to draw funds away from other, cash-strapped crime control and prevention programs. In short, the impact on the states would be devastating.

Therefore, we urge you to support funding for this important program at a level of $750 million.

Sincerely,

DIANNE FEINSTEIN.
BOB GRAHAM.
JON KYL.
HARRY REID.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, May 1, 2001.

Hon. GEORGE W. BUSH,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: The National Association of counties strongly supports the State Criminal Alien Assistance program (SCAAP) at least at its full authorization level. However, we believe the program needs to be funded at a much higher level than proposed, in order to address the serious shortfall in meeting costs to counties.

As of today, SCAAP only reimburses counties at a rate of 40 percent of actual expenses. To truly meet our annual costs for the incarceration of alien undocumented criminals, this considerable increase in funding would be needed. Moreover, due to recent changes in the administration of the program, significant costs such as inmate recreation and drug treatment expenses are no longer recognized.

While immigration policy is solemnly within federal responsibility, many of the expenses associated with it burden counties and state governments. Costs of providing services for undocumented aliens extend to county hospitals and county health departments and county human service agencies. With the upward trend in incarceration costs, counties depend even more on federal programs such as SCAAP since most of our local correctional agencies are at or near capacity.

We strongly urge you to fund SCAAP at least at its full authorization level.

Sincerely,

LARRY E. NAAKE,
Executive Director.

PINELLAS COUNTY SHERIFF'S OFFICE,
Largo, FL, April 27, 2001.

Senator BOB GRAHAM,
Senate Hart Building,
Washington, DC.

DEAR MR. PRESIDENT: We write to you in response to your Fiscal Year 2002 budget proposal to cut funding for the state Criminal Alien Assistance Program (SCAAP) by more than 50 percent. We urge you not to reduce the program but rather secure funding at a minimum of the current appropriation level. As of today, SCAAP only partly reimburses the actual expenses borne by state and local governments. To truly meet our annual costs for the incarceration of alien undocumented criminals, a considerable increase in the funding would be needed. Due to recent changes in the administration of the program, significant costs such as inmate recreation and drug treatment expenses are no longer recognized.

While immigration policy is solemnly within federal responsibility, many of the expenses associated with it burden local jurisdictions. Costs of providing services for undocumented aliens extend to the municipal police, local hospitals and health care department. With the upward trend in incarceration costs, counties depend even more on federal programs such as SCAAP since any undocumented alien caught committing a state felony or several misdemeanors enters the state or county criminal justice system.

We strongly ask you to reconsider your proposed cuts for SCAAP and instead secure financial assistance for the states and counties.

Sincerely,

EVERETT S. RICE,
Sheriff.

COLLIER COUNTY SHERIFF'S OFFICE,
Naples, FL, April 27, 2001.

Re State Criminal Alien Assistance Program (SCAAP).

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We write to you in response to your Fiscal Year 2002 budget proposal to cut funding for the State Criminal Alien Assistance Program (SCAAP) by more than 50 percent. We urge you not to reduce the program but rather secure funding at a minimum of the current appropriation level. As of today, SCAAP only partially reimburses the actual expenses borne by state and local governments. To truly meet our annual costs for the incarceration of alien undocumented criminals, a considerable increase in the funding would be needed. Due to recent changes in the administration of the program, significant costs such as inmate recreation and drug treatment expenses are no longer recognized.

While immigration policy is solemnly within federal responsibility, many of the expenses associated with it burden local jurisdictions. Costs of providing services for undocumented aliens extend to local law enforcement agencies, local hospitals, and health care departments. With the upward trend in incarcerations costs, counties depend even more on federal programs such as SCAAP since any undocumented alien caught committing a state felony or several misdemeanors enters the state or county criminal justice system.

We strongly urge you to reconsider your proposed cuts for SCAAP and instead secure financial assistance for the states and counties.

Sincerely,

DON HUNTER,
Sheriff.

HILLSBOROUGH COUNTY SHERIFF'S OFFICE,
Tampa, FL, May 2, 2001.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: Enclosed is the original and a copy of my letter to President Bush regarding the State Criminal Alien Assistance Program. I appreciate the pro active stance that you have taken to counter the proposed funding cut.

We have examined Senate Bill 169 and do not feel that it is a reasonable alternative. Each county and state, regardless of its geographic location, should have equal opportunity to apply for reimbursement using the same formula and criteria.

The other questions that you posed regarding the efficiency and effectiveness of the current SCAAP program are on point, but we do not have supporting statistics or documentation readily available. I would simply suggest that adequate funding for the program in its current form is of greatest importance.

Thank you again for taking the lead to protect the SCAAP program.

Sincerely,

CAL HENDERSON,
Sheriff.

CALIFORNIA CORRECTIONAL PEACE OFFICERS ASSOCIATION,
Sacramento, CA, May 9, 2001.

Hon. DIANNE FEINSTEIN,
Senate Hart Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I am writing on behalf of the California Correctional Peace Officers Association (CCPOA), representing approximately 28,000 correctional officers and parole agents in the State of California, to express our strong support for legislation you plan to introduce to reauthorize the State Criminal Alien Assistance Program (SCAAP).

It is our understanding that your bill would reauthorize the SCAAP program at an increased level of $750,000,000 for fiscal years 2002 through 2006. As you know, this program reimburses state and local governments for the costs of incarcerating criminal aliens. This program pays for the incarceration costs of criminals who have illegally entered or stayed in our country, have committed at least one felony or two misdemeanor crimes while in this country, and are serving time in local jails or state prisons. SCAAP recognizes that the federal government has sole jurisdiction over preventing illegal immigration and should be accountable for the consequences of illegal immigration. States and counties should not have to bear the financial consequences of the federal government's failure to prevent illegal immigration.

CCPOA was disappointed that the President's $265 million in funding for this program, a decrease of $299 million from last year, because ''SCAAP reimburses a relatively small portion of states incarceration costs and contributes little to reducing violent crime.'' SCAAP does only reimburse a small portion of states' incarceration costs, which is exactly why appropriations for this program need to be increased, not decreased. The program was never intended to reduce violent crime. It was intended, and has succeeded, in allowing state and local resources to be used on state and local crime issues, rather than federal responsibilities.

Again, CCPOA commends you for your leadership in this area. Please contact our Washington representative, Shannon Lahey if we can be of any assistance to you in securing the passage of this important legislation.

Sincerely,

MIKE JIMENEZ,
Executive Vice President.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, May 9, 2001.

Hon. DIANE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: I understand you will be introducing legislation tomorrow that will raise the SCAAP authorization level to $750 million annually. The National Association of Counties (NACo) wishes to go on record in support of your legislation.

NACo recognizes that securing the nation's border from illegal immigration is clearly the responsibility of the federal government and that Congress should fully reimburse counties for the costs of incarcerating undocumented aliens.

We look forward to working with you on this issue.

Sincerely,

LARRY E. NAAKE,
Executive Director.

Mr. GRAHAM. Mr. President, I rise today, with my colleagues Senators FEINSTEIN, KYL, and others, to reauthorize the State Criminal Alien Assistance Program, or SCAAP.

SCAAP was created as part of the 1994 Violent Crime Control and Law Enforcement Act because the federal government recognized the responsibility we have to alleviate the impact of immigration policy on state and local governments.

The federal government has sole jurisdiction over national immigration policy, and we should do all possible so that our federal decisions and actions do not cause a financial burden on states and localities.

SCAAP is a reimbursement program that sends dollars to our counties and states to help offset the costs associated with jailing illegal or criminal aliens.

SCAAP also established and now facilitates a process to better identify undocumented criminal aliens and to expedite the transfer of illegal aliens from state facilities and county jails to federal institutions in preparation for deportation, or other federal proceedings.

Thus, I was greatly concerned looking through the President's budget that this program was cut by more than 50 percent this year.

At the moment, SCAAP only provides reimbursement for about 37 cents of every dollar a state spends on criminal aliens.

We barely cover half the costs as is, and this is before the program was cut in half in this most recent budget.

For FY99, state and local governments incurred $1.5 billion in costs associated with criminal aliens which were eligible for reimbursement under the SCAAP program. In FY98, costs to state and local governments were even higher: $1.7 billion. This past year, $1.6 billion was spent by state and local governments on these concerns. Yet, we funded the program at $585 million in each of those years.

It's not as much reimbursement as is needed, but the reimbursement gives an appropriate and respectful amount of relief to state and local law enforcement budgets for the benefits they are providing to the federal government.

The National Governors Association has the reauthorization of this program as one of their top priorities for this year. I am certain that they also join me in asking that the program at least maintain funding levels of last year, if not a funding increase that will get them a more fair reimbursement for the dollars they spend.

The National Association of Counties supports reauthorization and full funding of SCAAP.

They make the point that state and local taxpayers should not have to bear the costs of criminal aliens. They are a federal responsibility, and should be transferred to federal custody in an expeditious manner.

Last year, every state, and more than 220 local governments received reimbursement under SCAAP.

This affects us all. I do not want to see the federal government backtrack on our obligation to state and local governments in the area of immigration.

Lastly, statements in the President's budget about this program concern me.

Two reasons were given for the cut of $299 million which this program endured.

The first was that it ''reimburses a relatively small portion of states' incarceration costs.''

This statement is true. As I've said, it only reimburses state or local governments about 37 cents of each dollar they spend on illegal immigrants and criminal aliens.

However, this is no reason to further cut the program! If anything, if we agree on the premise that immigration policy is a federal responsibility, then it is reason to fully fund the program.

I have never seen a rationale given where there is clear federal jurisdiction, like in this case, that specifically says: we can only reimburse states a small portion of what we owe them, so let's cut the program in half. I fail to see how this accomplishes the most effective public policy.

The second reason that is given for the program cut is that it has contributed ''little to reducing violent crime.''

Again—on it's face—this statement may be true, although I have not been able to obtain any supporting documentation that verifies it. But, regardless, that was never the Congressional intent of the program.

The intent of the program, clearly spelled out in the 1994 Crime bill, was to reimburse state, and later on through amendments in 1996, local governments for the costs they incur because of federal immigration policy. And, secondly, to expedite the transfer of criminal aliens from the state and local facilities where they may be originally held, into the federal system. I would argue that this, in and of itself, does reduce crime.

But I find it unfair that a program should be penalized with a 50 percent budget cut because it failed to achieve a goal that was never intended for the program.

Whichever side of the immigration debate you may be on—a more expansive immigration policy, or a more restrictive immigration policy—if you agree with the premise that immigration is the responsibility of and obligation of the federal government—then you should join us in our efforts to reauthorize and fully fund the SCAAP program.

I commend my colleagues, especially Senator FEINSTEIN and Senator KYL, for their tireless work on this issue. I look forward to seeing the program reauthorized and funded at an appropriate level this Congress.

Mr. MCCAIN. Mr. President, I am pleased to join my distinguished colleagues in introducing this important legislation to reauthorize the State Criminal Alien Assistance Program, SCAAP. Our bill will provide a higher level of federal reimbursement to states and localities across America whose budgets are disproportionately affected by the costs associated with illegal immigration.

The premise of our bill, and of current law governing this type of federal reimbursement to the states, is that controlling illegal immigration is principally the responsibility of the federal government, not the states. Local jurisdictions in many areas of our country, and especially along the southwest border, are burdened by the excessive costs of incarcerating criminal illegal aliens and providing emergency medical care to illegal immigrants. In a typical year, the federal government reimburses states and localities for less than 40 percent of these costs.

Regrettably, the Bush Administration's proposed FY 2002 budget would slash SCAAP funding by 50 percent from its current, already-insufficient level of $575 million. The National Governors' Association and the National Association of Counties, whose members deal with the problem of illegal immigration on a daily basis, believe we should increase, not cut, funding for this program, and I agree. SCAAP money flows to all 50 states and 350 local governments, with more applying for this assistance every year. Rather than forcing local residents to subsidize local jails and hospitals because of our government's failure to adequately reimburse them for illegal alien incarceration and medical costs, I hope we will take responsibility as a nation for protecting our borders and covering the contingencies that arise at the local level when we fail to do so.

The State Criminal Alien Assistance Program is an important expression of our government's commitment to border control, and to the quality of life of Americans who suffer the costs of illegal immigration. I thank my colleagues for considering the merits of our bill.

By Mr. REID:

S. 863. A bill to require Medicare providers to disclose publicly staffing and performance in order to promote improved consumer information and choice; to the Committee on Finance.

Mr. REID. Mr. President, I rise today to introduce the Patient Safety Act. This legislation would require Medicare providers, such as hospitals and clinics, to publicly disclose staffing ratios and performance data in order to promote improved consumer information and choice.

As we celebrate National Nurses Week, it is hard to ignore our nation's burgeoning nurse staffing crisis. As the baby-boom population ages and begins to require more nursing care, this shortage will only get worse. Inadequate staffing levels not only diminish nurses' working conditions, but they affect the quality of care patients receive. A recent report by the Department of Health and Human Services, Nurse Staffing and Patient Outcomes in Hospitals, confirmed that the number of nurses in a hospital makes a difference in the quality of care patients receive. One recommendation that came out of the study was the need to develop a system for routinely monitoring outcomes of hospital patient care sensitive to nursing and nurse staffing.

The Patient Safety Act would help to accomplish this goal by requiring health care institutions to make public specified information on staffing levels, mix and patient outcomes. At a minimum, they would have to make public: the number of registered nurses providing direct care; the number of unlicensed personnel utilized to provide direct patient care; the average number of patients per registered nurse providing direct patient care; patient mortality rate; incidence of adverse patient care incidents; and methods used for determining and adjusting staffing levels and patient care needs.

In addition, health care institutions would have to make public data regarding complaints filed with the state agency, the Health Care Financing Administration (HCFA) or an accrediting agency related to Medicare conditions of participation. The agency would then have to make public the results of any investigations or findings related to the complaint.

I urge my colleagues to join me in supporting this bill that would improve the safety of patients by encouraging higher nurse to patient ratios, and ultimately help retain nurses in the face of a nationwide nursing shortage by encouraging safe work environments.

By Mr. LEAHY (for himself, Mr. LIBERMAN, and Mr. LEVIN):

S. 864. A bill to amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce with Senators LIEBERMAN and LEVIN the Anti-Atrocity Alien Deportation Act of 2001. I introduced similar legislation in the last Congress, and was pleased when the proposal garnered bipartisan support in both the House and the Senate. The measure was introduced in the last Congress by Representatives FOLEY, FRANKS and ACKERMAN as H.R. 2642 and H.R. 3058, and has again been introduced on April 4, 2001, by Representatives FOLEY and ACKERMAN as H.R. 1449. Moreover, the legislation passed the Senate, on November 5, 1999, as part of the Hatch-Leahy ''Denying Safe Havens to Internationals and War Criminals Act,'' S. 1754, but unfortunately was not acted on by the House. The problem of human rights abusers seeking and obtaining refuge in this country is real, and requires an effective response with the legal and enforcement changes proposed in this legislation. The loss last week by the United States of its seat on the U.N. Human Rights Commission is highly embarrassing and unfortunate, but by ensuring that our country is no safe haven for human rights abusers, we can lead the world by our actions.

War criminals and human rights abusers have used loopholes in current law to enter and remain in this country. I have been appalled that this country has become a safe haven for those who exercised power in foreign countries to terrorize, rape, murder and torture innocent civilians. For example, three Ethiopian refugees proved in an American court that Kelbessa Negewo, a former senior government official in Ethiopia engaged in numerous acts of torture and human rights abuses against them in the late 1970's when they lived in that country. The court's descriptions of the abuse are chilling, and included whipping a naked woman with a wire for hours and threatening her with death in the presence of several men. The court's award of compensatory and punitive damages in the amount of $1,500,000 to the plaintiffs was subsequently affirmed by an appellate court. See Abebe-Jira v. Negewo, 72 F.3d 844 (11th Cir. 1996). Yet, while Negewo's case was on appeal, the Immigration and Naturalization Service granted him citizenship.

As Professor William Aceves of California Western School of Law has noted, this case reveals ''a glaring and troubling limitation in current immigration law and practice. This case is not unique. Other aliens who have committed gross human rights violations have also gained entry into the United States and been granted immigration relief.'' 20 Mich. J. Int'l.L. at 657. In fact, the Center for Justice and Accountability, a San Francisco human rights group, has identified approximately sixty suspected human rights violators now living in the United States.

Unfortunately, criminals who wielded machetes and guns against innocent civilians in countries like Haiti, Chile, Yugoslavia and Rwanda have been able to gain entry to the United States through the same doors that we have opened to deserving refugees. We need to lock that door to those human rights abusers who seek a safe haven in the United States. To those human rights abusers who are already here, we should promptly show them the door out.

We have unwittingly sheltered the oppressors along with the oppressed for too long. We should not let this situation continue. We waited too long after the last world war to focus prosecutorial resources and attention on Nazi war criminals who entered this country on false pretenses, or worse, with the collusion of American intelligence agencies. Last month, thousands of declassified CIA documents were made public, as a result of the Nazi War Crimes Disclosure Act that I was proud help enact in 1998, and made clear the extent that United States relied on and helped Nazi war criminals. As Eli M. Rosenbaum, the head of the Justice Department's Office of Special Investigations, noted, ''These files demonstrate that the real winners of the Cold War were Nazi criminals.'' We should not repeat that mistake for other aliens who engaged in human rights abuses before coming to the United States. We need to focus the attention of our law enforcement investigators to prosecute and deport those who have committed atrocities abroad and who now enjoy safe harbor in the United States.

When I first introduced this bill in 1999, the Pulitzer prize-winning paper, the Rutland Herald, opined on October 31, 1999, that:

> For the U.S. commitment to human rights to mean anything, U.S. policies must be strong and consistent. It is not enough to denounce war crimes in Bosnia and Kosovo or elsewhere and then wink as the perpetrators of torture and mass murder slip across the border to find a home in America.

The Clinton Administration recognized the deficiencies in our laws. One Clinton Administration witness testified in February, 2000:

> Right now, only three types of human rights abuse could prevent someone from entering or remaining in the United States. The types of prohibited conduct include: (1) genocide; (2) particularly severe violations of religious freedom; and (3) Nazi persecutions. Even these types of conduct are narrowly defined.

Hearing on H.R. 3058, ''Anti-Atrocity Alien Deportation Act,'' before the Subcomm. on Immigration and Claims of the House Comm. On the Judiciary, 106th Cong., 2d Sess., Feb. 17, 2000 (Statement of James E. Costello, Associate Deputy Attorney General).

The Anti-Atrocity Alien Deportation Act closes these loopholes. The Immigration and Nationality Act, INA, currently provides that (i) participants in Nazi persecutions during the time period from March 23, 1933 to May 8, 1945, (ii) aliens who engaged in genocide, and (iii) aliens who committed particularly severe violations of religious freedom, are inadmissable to the United States and deportable. See 8 U.S.C. §1182(a)(2)(G) & (3)(E) and §1227(a)(4)(D). The Justice Department's specialized OSI unit is authorized under a 1979 Attorney General order to investigate only Nazi war criminals, not any other human rights abuser. The bill would expand the grounds for inadmissibility and deportation to (1) add new bars for aliens who have engaged in acts, outside the United States, of ''torture'' and ''extrajudicial killing'' and (2) remove limitations on the current bases for ''genocide'' and ''particularly severe violations of religious freedom.''

The definitions for the new bases of ''torture'' and ''extrajudicial killing'' are derived from the Torture Victim Protection Act, which implemented the United Nations' ''Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.'' These definitions are therefore already sanctioned by the Congress. The bill incorporates the definition of ''torture'' codified in the federal criminal code, 18 U.S.C. § 2340, which prohibits:

> 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:

> 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 Torture Victim Protection Act also included a definition for ''extrajudicial killing.'' Specifically, 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.''

The bill would not only add the new grounds for inadmissibility and deportation, it would expand two of the current grounds. First, the current bar to aliens who have ''engaged in genocide'' defines that term by reference to the ''genocide'' definition in the Convention on the Prevention and Punishment of the Crime of Genocide. 8 U.S.C. 1182(a)(3)(E)(ii). For clarity and consistency, the bill would substitute instead the definition in the federal criminal code, 18 U.S.C. § 1091(a), which was adopted pursuant to the U.S. obligations under the Genocide Convention. The bill would also broaden the reach of the provision 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. This broader scope will ensure that the genocide provision addresses a more appropriate range of levels of complicity.

Second, the current bar to aliens who have committed ''particularly severe violations of religious freedom,'' as defined in the International Religious Freedom Act of 1998, IFRA, limits its application to foreign government officials who engaged in such conduct within the last 24 months, and also bars from admission the individual's spouse and children, if any. The bill would delete reference to prohibited conduct occurring within a 24-month period since this limitation is not consistent with the strong stance of the United States to promote religious

freedom throughout the world. As Professor Aceves opines:

This provision is unduly restrictive . . . The 24-month time limitation for this prohibition is also unnecessary. A perpetrator of human rights atrocities should not be able to seek absolution by merely waiting two years after the commission of these acts. William J. Aceves, supra, 20 Mich. J. Int'l L., at 683.

In addition, the bill would remove the current bar to admission for the spouse or children. This 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.

Changing the law to address the problem of human rights abusers seeking entry and remaining in the United States is only part of the solution. We also need effective enforcement. As one expert noted:

[s]trong institutional mechanisms must be established to implement this proposed legislation. At present, there does not appear to be any agency within the Department of Justice with the specific mandate of identifying, investigating and prosecuting modern day perpetrators of human rights atrocities. The importance of establishing a separate agency for this function can be seen in the experiences of the Office of Special Investigations. 20 Mich. J. Int'l L., at 689.

We need to update OSI's mission to ensure effective enforcement. Our country has long provided the template and moral leadership for dealing with Nazi war criminals. The Justice Department's specialized unit, OSI, which was created to hunt down, prosecute, and remove Nazi war criminals who had slipped into the United States among their victims under the Displaced Persons Act, is an example of effective enforcement. Since the OSI's inception in 1979, 61 Nazi persecutors have been stripped of U.S. citizenship, 49 such individuals have been removed from the United States, and more than 150 have been denied entry.

OSI was created almost 35 years after the end of World War II and it remains authorized only to track Nazi war criminals. Specifically, when Attorney General Civiletti established OSI within the Criminal Division of the Department of Justice, that office was directed to conduct 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 affiliated [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.'' (Attorney Gen. Order No. 851–79). The OSI's mission continues to be limited by that Attorney General Order.

Little is being done about the new generation of international human rights abusers and war criminals living among us, and these delays are costly. As any prosecutor, or, in my case, former prosecutor, knows instinctively, such delays make documentary and testimonial evidence more difficult to obtain. Stale cases are the hardest to make. Since I introduced this bill in the last Congress, there have been no further developments in the Kelbessa Negewo case, he still remains living in Atlanta. In addition, there has been no action taken on Carlos Eugenio Vides Casanova, the former head of the Salvadoran National Guard, a unit whose members kidnaped, raped, and murdered four American churchwomen during the El Salvadoran civil war. Vides Casanova remains in the United States.

We should not repeat the mistake of waiting decades before tracking down war criminals and human rights abusers who have settled in this country. War criminals should find no sanctuary in loopholes in our current immigration policies and enforcement. No war criminal should ever come to believe that he is going to find safe harbor in the United States.

The Anti-Atrocity Alien Deportation Act would amend the Immigration and Nationality Act, 8 U.S.C. § 1103, by directing the Attorney General to establish an Office of Special Investigations (OSI) within the Department of Justice with authorization to investigate, remove, denaturalize, prosecute or extradite any alien who has participated in Nazi persecution, torture, extrajudicial killing or genocide abroad. Not only would the bill provide statutory authorization for Office of Special Investigation, it would also expand its jurisdiction to deal with any alien who participated in torture, extrajudicial killing and genocide abroad, not just Nazis.

The success of OSI in hunting Nazi war criminals demonstrates the effectiveness of centralized resources and expertise in these cases. OSI has worked, and it is time to update its mission. The knowledge of the people, politics and pathologies of particular regimes engaged in genocide and human rights abuses is often necessary for effective prosecutions of these cases and may best be accomplished by the concentrated efforts of a single office, rather than in piecemeal litigation around the country or in offices that have more diverse missions.

The bill directs the Attorney General, in determining what action to take against a human rights abuser seeking entry into or found within the United States, to consider whether a prosecution should be brought under U.S. law or whether the alien should be deported to a country willing to undertake such a prosecution. As one human rights expert has noted:

The justifiable outrage felt by many when it is discovered that serious human rights abusers have found their way into the United States may lead well-meaning people to call for their immediate expulsion. Such individuals certainly should not be enjoying the good life America has to offer. But when we ask the question ''where should they be?'' the answer is clear: they should be in the dock. That is the essence of accountability, and it should be the central goal of any scheme to penalize human rights abusers.

Hearing on H.R. 5238, ''Serious Human Rights Abusers Accountability Act,'' before the Subcomm. on Immigration and Claims of the House Comm. On the Judiciary, 106th Cong., 2d Sess., Sept. 28, 2000 (Statement of Elisa Massimino, Director, Washington Office, Lawyers Committee For Human Rights).

I appreciate that this part of the legislation has proven controversial within the Department of Justice, but others have concurred in my judgment that the OSI is an appropriate component of the Department to address the new responsibilities proposed in the bill. Professor Aceves, who has studied these matters extensively, has concluded that OSI's ''methodology for pursuing Nazi war criminals can be applied with equal rigor to other perpetrators of human rights violations. As the number of Nazi war criminals inevitably declines, the OSI can begin to enforce U.S. immigration laws against perpetrators of genocide and other gross violations of human rights.'' 20 Mich. J. Int'l. 657.

Similarly, the Rutland Herald noted that the INS has never deported an immigrant on the basis of human rights abuses, by contrast to OSI's active deportations of ex-Nazis, while maintaining a list of 60,000 suspected war criminals with the aim of barring them from entry. Based on this record, the Rutland Herald concluded that the legislation correctly looks to OSI to carry out the additional responsibilities called for in the bill, noting that:

It resolves a turf war between the INS and the OSI in favor of the OSI, which is as it should be. The victims of human rights abuses are often victimized again when, seeking refuge in the United States, they are confronted by the draconian policies of the INS. It's a better idea to give the job of finding war criminals to the office that has shown it knows how to do the job.

Unquestionably, the need to bring Nazi war criminals to justice remains a matter of great importance. Funds would not be diverted from the OSI's current mission. Additional resources are authorized in the bill for OSI's expanded duties.

Finally, the bill directs the Attorney General to report to the Judiciary Committees of the Senate and the House on implementation of the new requirements in the bill, 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.

We must honor and respect the unique experiences of those who were victims in the darkest moment in world history. We may help honor the memories of the victims of the Holocaust by pursuing all human rights abusers and war criminals who enter our country. By so doing, the United States can provide moral leadership and show that we will not tolerate perpetrators of genocide, extrajudicial killing and torture, least of all here.

I ask unanimous consent that the text of the bill and a sectional analysis be printed in the RECORD.

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

S. 864

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 ''Anti-Atrocity Alien Deportation Act of 2001''.

SEC. 2. INADMISSIBILITY AND REMOVABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(1) in clause (ii), by striking ''has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is inadmissible'' and inserting ''ordered, incited, assisted, or otherwise participated in conduct outside the United States that would, if committed in the United States or by a United States national, be genocide, as defined in section 1091(a) of title 18, United States Code, is inadmissible'';

(2) by adding at the end the following:

''(iii) COMMISSION OF ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS.—Any alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of—

''(I) any act of torture, as defined in section 2340 of title 18, United States Code; or

''(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of Torture Victim Protection Act of 1991;

is inadmissible.''; and

(3) in the subparagraph heading, by striking ''PARTICIPANTS IN NAZI PERSECUTION OR GENOCIDE'' and inserting ''PARTICIPANTS IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING''.

(b) REMOVABILITY.—Section 237(a)(4)(D) of such Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) by striking ''clause (i) or (ii)'' and inserting ''clause (i), (ii), or (iii)''; and

(2) in the subparagraph heading, by striking ''ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE'' and inserting ''ASSISTED IN NAZI PERSECUTION, PARTICIPATED IN GENOCIDE, OR COMMITTED ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed before, on, or after the date of the enactment of this Act.

SEC. 3. INADMISSIBILITY AND REMOVABILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

''(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998, are inadmissible.''.

(b) Section 237(a)(4) of such Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

''(E) PARTICIPATED IN THE COMMISSION OF SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien described in section 212(a)(2)(G) is deportable.''.

SEC. 4. BAR TO GOOD MORAL CHARACTER FOR ALIENS WHO HAVE COMMITTED ACTS OF TORTURE, EXTRAJUDICIAL KILLINGS, OR SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(2) by adding at the end the following:

''(9) one who at any time has engaged in conduct described in section 212(a)(3)(E) (relating to assistance in Nazi persecution, participation in genocide, or commission of acts of torture or extrajudicial killings) or 212(a)(2)(G) (relating to severe violations of religious freedom).''.

SEC. 5. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

''(g) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority of investigating, and, where appropriate, taking legal action to remove, denaturalize, prosecute, or extradite any alien found to be in violation of clause (i), (ii), or (iii) of section 212(a)(3)(E). In determining such appropriate legal action, consideration shall be given to—

''(1) the availability of prosecution under the laws of the United States for any conduct that may form the basis for removal and denaturalization; or

''(2) removal of the alien to a foreign jurisdiction that is prepared to undertake a prosecution for such conduct.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the additional duties established under section 103(g) of the Immigration and Nationality Act (as added by this Act) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 6. REPORT ON IMPLEMENTATION OF THE ACT.

Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Immigration and Naturalization, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on implementation of this Act that includes a description of—

(1) the procedures used to refer matters to the Office of Special Investigations in a manner consistent with the amendments made by this Act;

(2) the revisions, if any, made to immigration forms to reflect changes in the Immigration and Nationality Act made by the amendments contained in this Act; and

(3) the procedures developed, with adequate due process protection, to obtain sufficient evidence to determine whether an alien may be inadmissible under the terms of the amendments made by this Act.

SECTIONAL ANALYSIS OF LEAHY ANTI-ATROCITY ALIEN DEPORTATION ACT

SUMMARY

This bill would make the following four changes in our country's enforcement capability against aliens who have committed atrocities abroad and then try to enter or remain in the United States:

Amend the Immigration and Nationality Act (INA) to expand the grounds for inadmissibility and deportation to cover aliens who have engaged in acts of torture, as defined in 18 U.S.C. §2340, and extrajudicial killing, as defined in the Torture Victim Protection Act, abroad, as well as expand the scope of the current prohibitions on aliens who have engaged in genocide and particularly severe violations of religious freedom;

Amend the INA to make clear that aliens who have committed torture, extrajudicial killing or particularly severe violations of religious freedom abroad do not have ''good moral character'' and cannot qualify to become U.S. citizens or for other immigration benefits;

Direct the Attorney General to establish the Office of Special Investigation (OSI) within the Criminal Division and expand the OSI's authority to investigate, remove, denaturalize, prosecute, or extradite any alien who participated in torture, genocide and extrajudicial killing abroad—not just Nazi war criminals; and

Direct the Attorney General, in consultation with the INS Commissioner, to report to the Judiciary Committees of the Senate and House of Representatives on implementation of procedures to refer matters to OSI, revise INS forms, and procedures to obtain adequate evidence to develop ''watch lists'' of aliens deemed inadmissible under the bill.

SEC. 1. SHORT TITLE

The bill may be cited as the ''Anti-Atrocity Alien Deportation Act of 2001.''

SEC. 2. INADMISSIBILITY AND REMOVABILITY 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)&(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 Immigration and Nationality Act 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. 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 international 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 Immigration and Naturalization Service (INS) or the Executive Office of Immigration Review were initiated prior to the time of enactment.

SEC. 3. INADMISSIBILITY AND REMOVABILITY 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 removability 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 to 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 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 familiar 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.''

SEC. 4. BAR TO GOOD MORAL CHARACTER 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 provides the current definition of ''good moral character,'' to make clear that aliens who have committed torture, extrajudicial killing—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 benefitting 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.

SEC. 5. 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 affiliated [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. 851–79). The OSI's mission continues to be limited by that Attorney General Order.

This section would amend the Immigration and Nationality Act, 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 investigate, remove, denaturalize, prosecute or extradite any alien who has participated in Nazi persecution, genocide, torture or extrajudical killing abroad. This would expand OSI's current authorized mission. 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 deportation to foreign jurisdictions that are prepared to undertake such a prosecution. Statutory and regulatory provisions to implement Article 3 of that Convention Against Torture, which prohibits the removal of any person to a country where he or she would be tortured, may also be part of this consideration. Additional funds are authorized for these expanded duties to ensure that OSI fulfills its continuing obligations regarding Nazi war criminals.

SEC. 6. REPORT OF IMPLEMENTATION OF THE ACT

This section of the bill would direct the Attorney General, in consultations with the INS Commissioner 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.

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

S. 865. A bill to provide small businesses certain protections from litigation excesses and to limit the product liability of nonmanufacturer product sellers; to the Committee on the Judiciary.

Mr. McCONNELL. 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. 865

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Liability Reform Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS LAWSUIT ABUSE PROTECTION

Sec. 101. Findings.
Sec. 102. Definitions.
Sec. 103. Limitation on punitive damages for small businesses.
Sec. 104. Limitation on joint and several liability for noneconomic loss for small businesses.
Sec. 105. Exceptions to limitations on liability.
Sec. 106. Preemption and election of State nonapplicability.

TITLE II—PRODUCT SELLER FAIR TREATMENT

Sec. 201. Findings; purposes.
Sec. 202. Definitions.
Sec. 203. Applicability; preemption.
Sec. 204. Liability rules applicable to product sellers, renters, and lessors.
Sec. 205. Federal cause of action precluded.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—SMALL BUSINESS LAWSUIT ABUSE PROTECTION

SEC. 101. FINDINGS.

Congress finds that—

(1) the United States civil justice system is inefficient, unpredictable, unfair, costly, and impedes competitiveness in the marketplace for goods, services, business, and employees;

(2) the defects in the United States civil justice system have a direct and undesirable effect on interstate commerce by decreasing the availability of goods and services in commerce;

(3) there is a need to restore rationality, certainty, and fairness to the legal system;

(4) the spiralling costs of litigation and the magnitude and unpredictability of punitive damage awards and noneconomic damage awards have continued unabated for at least the past 30 years;

(5) the Supreme Court of the United States has recognized that a punitive damage award can be unconstitutional if the award is grossly excessive in relation to the legitimate interest of the government in the punishment and deterrence of unlawful conduct;

(6) just as punitive damage awards can be grossly excessive, so can it be grossly excessive in some circumstances for a party to be held responsible under the doctrine of joint and several liability for damages that party did not cause;

(7) as a result of joint and several liability, entities including small businesses are often brought into litigation despite the fact that their conduct may have little or nothing to do with the accident or transaction giving rise to the lawsuit, and may therefore face increased and unjust costs due to the possibility or result of unfair and disproportionate damage awards;

(8) the costs imposed by the civil justice system on small businesses are particularly acute, since small businesses often lack the resources to bear those costs and to challenge unwarranted lawsuits;

(9) due to high liability costs and unwarranted litigation costs, small businesses face higher costs in purchasing insurance through interstate insurance markets to cover their activities;

(10) liability reform for small businesses will promote the free flow of goods and services, lessen burdens on interstate commerce, and decrease litigiousness; and

(11) legislation to address these concerns is an appropriate exercise of the powers of Congress under clauses 3, 9, and 18 of section 8 of article I of the Constitution of the United States, and the 14th amendment to the Constitution of the United States.

SEC. 102. DEFINITIONS.

In this title:

(1) CRIME OF VIOLENCE.—The term ''crime of violence'' has the same meaning as in section 16 of title 18, United States Code.

(2) DRUG.—The term ''drug'' means any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) that was not legally prescribed for use by the defendant or that was taken by the defendant other than in accordance with the terms of a lawfully issued prescription.

(3) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(4) HARM.—The term ''harm'' means any physical injury, illness, disease, or death or damage to property.

(5) HATE CRIME.—The term ''hate crime'' means a crime described under section 1(b) of the Hate Crime Statistics Act (28 U.S.C. 534 note).

(6) INTERNATIONAL TERRORISM.—The term ''international terrorism'' has the same meaning as in section 2331 of title 18, United States Code.

(7) NONECONOMIC LOSS.—The term ''noneconomic loss'' means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), injury to reputation, or any other nonpecuniary loss of any kind or nature.

(8) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(9) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded against any person or entity to punish or deter such person, entity, or others from engaging in similar behavior in the future. Such term does not include any civil penalties, fines, or treble damages that are assessed or enforced by an agency of State or Federal government pursuant to a State or Federal statute.

(10) SMALL BUSINESS.—

(A) IN GENERAL.—The term ''small business'' means any unincorporated business, or any partnership, corporation, association, unit of local government, or organization that has fewer than 25 full-time employees as determined on the date the civil action involving the small business is filed.

(B) CALCULATION OF NUMBER OF EMPLOYEES.—For purposes of subparagraph (A), the number of employees of a subsidiary of a wholly owned corporation includes the employees of—

(i) a parent corporation; and

(ii) any other subsidiary corporation of that parent corporation.

(11) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.

SEC. 103. LIMITATION ON PUNITIVE DAMAGES FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Except as provided in section 105, in any civil action against a small business, punitive damages may, to the extent permitted by applicable Federal or State law, be awarded against the small business only if the claimant establishes by clear and convincing evidence that conduct carried out by that defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action.

(b) LIMITATION ON AMOUNT.—In any civil action against a small business, punitive damages awarded against a small business shall not exceed the lesser of—

(1) three times the total amount awarded to the claimant for economic and noneconomic losses; or

(2) $250,000,

except that the court may make this subsection inapplicable if the court finds that the plaintiff established by clear and convincing evidence that the defendant acted with specific intent to cause the type of harm for which the action was brought.

(c) APPLICATION BY THE COURT.—The limitation prescribed by this section shall be applied by the court and shall not be disclosed to the jury.

SEC. 104. LIMITATION ON JOINT AND SEVERAL LIABILITY FOR NONECONOMIC LOSS FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Except as provided in section 105, in any civil action against a small business, the liability of each defendant that is a small business, or the agent of a small business, for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—In any civil action described in subsection (a)—

(A) each defendant described in that subsection shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable; and

(B) the court shall render a separate judgment against each defendant described in that subsection in an amount determined under subparagraph (A).

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the harm to the claimant, regardless of whether or not the person is a party to the action.

SEC. 105. EXCEPTIONS TO LIMITATIONS ON LIABILITY.

The limitations on liability under sections 103 and 104 do not apply—

(1) to any defendant whose misconduct—

(A) constitutes—

(i) a crime of violence;

(ii) an act of international terrorism; or

(iii) a hate crime;

(B) results in liability for damages relating to the injury to, destruction of, loss of, or loss of use of, natural resources described in—

(i) section 1002(b)(2)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2702(b)(2)(A)); or

(ii) section 107(a)(4)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)(4)(C));

(C) involves—

(i) a sexual offense, as defined by applicable State law; or

(ii) a violation of a Federal or State civil rights law; or

(D) occurred at the time the defendant was under the influence (as determined under applicable State law) of intoxicating alcohol or a drug, and the fact that the defendant was under the influence was the cause of any harm alleged by the plaintiff in the subject action; or

(2) to any cause of action which is brought under the provisions of title 31, United States Code, relating to false claims (31 U.S.C. 3729 through 3733) or to any other cause of action brought by the United States relating to fraud or false statements.

SEC. 106. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—Subject to subsection (b), this title preempts the laws of any State to the extent that State laws are inconsistent with this title.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This title does not apply to any action in a State court against a small business in which all parties are citizens of the State, if the State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this title does not apply as of a date certain to such actions in the State; and

(3) containing no other provision.

TITLE II—PRODUCT SELLER FAIR TREATMENT

SEC. 201. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) although damage awards in product liability actions may encourage the production of safer products, they may also have a direct effect on interstate commerce and consumers of the United States by increasing the cost of, and decreasing the availability of, products;

(2) some of the rules of law governing product liability actions are inconsistent within and among the States, resulting in differences in State laws that may be inequitable with respect to plaintiffs and defendants and may impose burdens on interstate commerce;

(3) product liability awards may jeopardize the financial well-being of individuals and industries, particularly the small businesses of the United States;

(4) because the product liability laws of a State may have adverse effects on consumers and businesses in many other States, it is appropriate for the Federal Government to enact national, uniform product liability laws that preempt State laws; and

(5) under clause 3 of section 8 of article I of the United States Constitution, it is the constitutional role of the Federal Government to remove barriers to interstate commerce.

(b) PURPOSES.—The purposes of this title, based on the powers of the United States under clause 3 of section 8 of article I of the United States Constitution, are to promote the free flow of goods and services and lessen the burdens on interstate commerce, by—

(1) establishing certain uniform legal principles of product liability that provide a fair balance among the interests of all parties in the chain of production, distribution, and use of products; and

(2) reducing the unacceptable costs and delays in product liability actions caused by excessive litigation that harms both plaintiffs and defendants.

SEC. 202. DEFINITIONS.

In this title:

(1) ALCOHOL PRODUCT.—The term ''alcohol product'' includes any product that contains not less than ½ of 1 percent of alcohol by volume and is intended for human consumption.

(2) CLAIMANT.—The term ''claimant'' means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) COMMERCIAL LOSS.—The term ''commercial loss'' means—

(A) any loss or damage solely to a product itself;

(B) loss relating to a dispute over the value of a product; or

(C) consequential economic loss, the recovery of which is governed by applicable State commercial or contract laws that are similar to the Uniform Commercial Code.

(4) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means damages awarded for economic and noneconomic losses.

(5) DRAM-SHOP.—The term ''dram-shop'' means a drinking establishment where alcoholic beverages are sold to be consumed on the premises.

(6) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for that loss is allowed under applicable State law.

(7) HARM.—The term ''harm'' means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include commercial loss.

(8) MANUFACTURER.—The term ''manufacturer'' means—

(A) any person who—

(i) is engaged in a business to produce, create, make, or construct any product (or component part of a product); and

(ii)(I) designs or formulates the product (or component part of the product); or

(II) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) that are created or affected when, before placing the product in the stream of commerce, the product seller—

(i) produces, creates, makes, constructs and designs, or formulates an aspect of the product (or component part of the product) made by another person; or

(ii) has engaged another person to design or formulate an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(9) NONECONOMIC LOSS.—The term ''noneconomic loss'' means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), injury to reputation, or any other nonpecuniary loss of any kind or nature.

(10) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(11) PRODUCT.—

(A) IN GENERAL.—The term ''product'' means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term ''product'' does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam.

(12) PRODUCT LIABILITY ACTION.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the term ''product liability action'' means a civil action brought on any theory for a claim for any physical injury, illness, disease, death, or damage to property that is caused by a product.

(B) The following claims are not included in the term ''product liability action'':

(i) NEGLIGENT ENTRUSTMENT.—A claim for negligent entrustment.

(ii) NEGLIGENCE PER SE.—A claim brought under a theory of negligence per se.

(iii) DRAM-SHOP.—A claim brought under a theory of dram-shop or third-party liability arising out of the sale or providing of an alcoholic product to an intoxicated person or minor.

(13) PRODUCT SELLER.—

(A) IN GENERAL.—The term ''product seller'' means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term ''product seller'' does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(14) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.

SEC. 203. APPLICABILITY; PREEMPTION.

(a) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this title governs any product liability action brought in any Federal or State court.

(2) ACTIONS FOR COMMERCIAL LOSS.—A civil action brought for commercial loss shall be governed only by applicable State commercial or contract laws that are similar to the Uniform Commercial Code.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes a State law only to the extent that the State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable Federal or State law.

(c) EFFECT ON OTHER LAW.—Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any State law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief, for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8))).

SEC. 204. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action covered under this title, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that—

(A)(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of the harm to the claimant;

(B)(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused the harm to the claimant; or

(C)(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) the intentional wrongdoing caused the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if—

(A) the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product that allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product, if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant is or would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) DEFINITION.—For purposes of paragraph (2), and for determining the applicability of this title to any person subject to that paragraph, the term ''product liability action'' means a civil action brought on any theory for harm caused by a product or product use.

(2) LIABILITY.—Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 202(13)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of that product.

SEC. 205. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under this title based on section 1331 or 1337 of title 28, United States Code.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act shall take effect with respect to any civil action commenced after the date of the enactment of this Act without regard to whether the harm that is the subject of the action occurred before such date.

By Mr. REID (for himself and Mr. WARNER)

S. 866. A bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, I rise today along with my good friend and colleague Senator WARNER because I am deeply concerned with the underage drinking occurring in America. Alcohol is currently the number 1 drug problem for America's youth. Alcohol kills 6.5 times more young people in America than all other illicit drugs combined, Pacific Institute for Research and Evaluation.

Drinking under the age of 21 is illegal in all 50 states, yet 10.4 million kids in America consume alcohol illegally, starting on average at just 13 years of age, Health People 2010 Study, Health and Human Services. In my own state of Nevada, there has been a 3-percent increase since 1997 in the number of teens who report drinking. Nevada's youth, ages 12–17 are ranked third nationally in reported illicit drug or alcohol dependence and 5th in binge alcohol use, National Household Survey, 1999.

Alcohol is a major contributing factor in approximately half of all youth homicides, suicides, motor vehicle crashes, death and disability in Nevada, Nevada Youth Risk Behavior Survey, 1999. Alcohol is clearly the drug of choice for teenagers throughout America.

Specifically in Nevada, 73 percent of 10th graders have tried alcohol, while 33 percent drink monthly. The numbers are even greater for high school seniors, 75 percent and 41 percent respectively, Nevada Safe and Drug Free Schools Survey.

The purpose of our bill the ''National Media Campaign to Prevent Underage Drinking Act of 2001'' is to establish a national campaign to reduce and prevent underage drinking in America and will be conducted by the Department of Health and Human Services.

This bipartisan legislation will educate America's youth and their parents about the dangers and consequences of underage drinking. It will use television, print, radio and Internet advertisements to highlight the facts and the negative consequence of underage drinking.

Our bill addresses a need for a comprehensive public education campaign aimed at underage drinking. MADD reports that underage drinking contributes to increased motor vehicle crashes, crime, violence, unprotected sex, teenage pregnancy, sexually transmitted diseases, depression, suicide, alcohol dependence, and other drug use.

Young people who begin drinking before age 15 are four times more likely to develop alcohol dependence than those who begin drinking after age 21, National Institutes of Health. The more America's youth drink, the more likely they are to drink and drive, American Academy of Pediatrics. Over 16,000 Americans were killed in alcohol-related motor vehicle crashes in 1999 and nearly one million were injured. In 1999, over 2,000 young people between the ages of 15–20 lost their lives to alcohol-related crashes.

Senator WARNER and I have chosen to introduce this legislation today because Prom season, graduation parties, and summer vacations are all rapidly approaching. And that means a lot of parents are focused on the threat of teen drinking, and drunk driving. It is however, important that we do not focus on underage drinking only during these types of events. This is something we should address every day of the year, year after year. That is what this legislation does.

Additionally, as you all know Mother's Day is this Sunday. I want to ask that all of you young Americans consider giving your mother a very special gift this year. Promise her that you won't drink and drive—at your prom, or at your graduation.

This independent campaign should be established and should be conducted by the Secretary of the Department of Health and Human Services. Modeled after the Anti-Drug Campaign, the National Media Campaign to Prevent Underage Drinking will be separately funded and conducted by the Office of Public Health and Science, in conjunction with the Surgeon General, and will be based on scientific research.

I ask unanimous consent that the text of the National Media Campaign to Prevent Underage Drinking Act of 2001 be printed in the RECORD.

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

S. 866

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 ''National Media Campaign to Prevent Underage Drinking Act of 2001''.

SEC. 2. DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF PUBLIC HEALTH AND SCIENCE; PROGRAM FOR NATIONAL MEDIA CAMPAIGN TO PREVENT UNDERAGE DRINKING.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following:

''SEC. 1711. NATIONAL MEDIA CAMPAIGN TO PREVENT UNDERAGE DRINKING.

''(a) REQUIREMENT TO CONDUCT A NATIONAL MEDIA CAMPAIGN.—

''(1) IN GENERAL.—The Secretary shall develop, implement, and conduct a national media campaign in accordance with this section for the purpose of reducing and preventing underage drinking in the United States.

''(2) ADMINISTRATION.—The Secretary shall carry out this section through the Office of Public Health and Science and in consultation with the Surgeon General of the Public Health Service.

''(3) BASED ON SCIENCE.—The Secretary shall develop, implement, and conduct the national media campaign based upon reputable academic and scientific research on youth attitudes and the prevalence of underage drinking in the United States, as well as on the science and research on mass media prevention campaigns.

''(4) SUPPLEMENT; NOT SUPPLANT.—In developing, implementing, and conducting the national media campaign, the Secretary shall supplement (and not supplant) existing efforts by State, local, private, and nonprofit entities to reduce and prevent underage drinking in the United States and shall coordinate with other Federal agencies and departments, including the Centers for Disease Control and Prevention, the National Institute on Alcohol Abuse and Alcoholism, the Substance Abuse and Mental Health Services Administration, the National Institute on Drug Abuse, the Department of Justice, the Department of Transportation, and the Office of National Drug Control Policy.

''(5) TARGETING.—The Secretary shall, to the maximum extent feasible, use amounts available under subsection (e) for media that focuses on, or includes specific information on, prevention or treatment resources for consumers within specific geographic local areas. The Secretary shall ensure that the national media campaign includes messages that are language-appropriate and culturally competent to reach minority groups.

''(b) USE OF FUNDS.—

''(1) ADVERTISING.—Of the amounts available under subsection (e), the Secretary shall devote sufficient funds to the advertising portion of the national media campaign to meet the stated reach and frequency goals of the campaign.

''(2) AUTHORIZED USES.—

''(A) IN GENERAL.—Amounts available under subsection (e) for the national media campaign may only be used for the development of the campaign and—

''(i) the development of a comprehensive strategy planning document;

''(ii) the purchase of media time and space;

''(iii) talent reuse payments;

''(iv) out-of-pocket advertising production costs;

''(v) testing and evaluation of advertising;

''(vi) evaluation of the effectiveness of the media campaign; and

''(vii) the negotiated fees for the winning bidder on request for proposals issued by the Assistant Secretary for Health.

''(B) CERTAIN USES.—In support of the primary goal of developing, implementing and conducting an effective advertising campaign, funds available under subsection (e) may be used for—

''(i) partnerships with community, civic, and professional groups, and government organizations related to the media campaign; and

''(ii) entertainment industry collaborations to fashion underage-drinking prevention messages in motion pictures, television programming, popular music, interactive (Internet and new) media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

''(3) PROHIBITIONS.—None of the amounts available under subsection (e) may be obligated or expended—

''(A) to supplant efforts of community-based coalitions to reduce and prevent underage drinking;

''(B) to supplant current pro bono public service time donated by national and local broadcasting networks;

''(C) for partisan political purposes;

''(D) to fund media campaigns that feature any elected officials, persons seeking elected office, cabinet level officials, or other Federal officials employed pursuant to section 213 of schedule C of title 5, Code of Federal Regulations, unless the Assistant Secretary for Health provides advance notice to the appropriations committees, the oversight committees, and the appropriate authorizing committees of the House of Representatives and the Senate; or

''(E) to fund or support advertising messages bearing any company or brand logos or other identifying corporate or trade information.

''(4) MATCHING REQUIREMENT.—As a condition of each purchase of media time or space for the national media campaign, the Secretary shall require that the seller of the time or space provide non-Federal contributions to the national media campaign in an amount equal to 50 percent of the purchase price of the time or space, which may be contributions of funds, or in-kind contributions in the form of public service announcements specifically directed to reducing and preventing underage drinking.

''(c) REPORTS TO CONGRESS.—

''(1) COMPREHENSIVE STRATEGY.—Not later than 6 months after the date of enactment of this section, the Secretary shall develop and submit to Congress a comprehensive strategy that identifies the nature and extent of the problem of underage drinking, the scientific basis for the strategy, including a review of the existing scientific research, target audiences, goals and objectives of the campaign, message points that will be effective in changing attitudes and behavior, a campaign outline and implementation plan, an evaluation plan, and the estimated costs of implementation.

''(2) ANNUAL REPORTS.—The Secretary shall annually submit to Congress a report on the

activities for which amounts available under subsection (e) were obligated during the preceding year, including information for each quarter of such year, and on the specific parameters of the national media campaign including whether the campaign is achieving identified performance goals based on an independent evaluation.

''(3) PROGRESS REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to Congress a report on the progress of the national media campaign based on measurable outcomes previously provided to Congress.

''(d) DEFINITION.—For purposes of this section, the term 'underage drinking' means any consumption of alcoholic beverages by individuals who have not attained the age at which (in the State involved) it is legal to purchase such beverages.

''(e) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2002 through 2007.

''(2) LIMITATION REGARDING COMPREHENSIVE STRATEGY ACTIVITIES.—Of the amounts appropriated under paragraph (1), the Secretary may not expend more than $1,000,000 to carry out subsection (c)(1).''.

By Mrs. FEINSTEIN:

S. 868. A bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage and group health plans provide coverage of cancer screening; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, today I am introducing a bill to require health insurance plans to cover screening tests for cancer. Congresswomen CAROLYN MALONEY and SUE KELLY are introducing a companion bill in the House today.

The bill requires plans to cover screening tests including mammography and clinical breast examinations for breast cancer, ''pap'' tests and pelvic examinations for gynecological cancers, colorectal screening for colon and rectum cancers, and prostate screening for prostate cancer.

To address future changes in scientific knowledge and medical practice, the bill allows the Secretary to change the requirements upon the Secretary's initiative or upon petition by a private individual or group. This provision is included because we do not yet have screening tests for many cancers, including brain tumors, leukemia Hodgkin's disease, and ovarian, liver and pancreatic cancers. These are often not detected until they produce symptoms, at which point the cancer may have advanced significantly.

The American Cancer Society has described ''screening'' as ''the search for disease in persons who do not have disease or who do not recognize that they have symptoms of disease,'' Screening, as defined by the American medical Association, is ''health care services or products provided to an individual without apparent signs or symptoms of an illness, injury, or disease for the purpose of identifying or excluding an undiagnosed illness, disease or condition.'' One of the most common screening procedures is the mammogram, which millions of women get annually to determine if there are suspicious lesions or lumps in their breasts.

A major way to reduce the number of cancer-related deaths and to increase survival is to increase cancer screening rates. The American Cancer Society, (ACS), predicts that 563,100 Americans will die of cancer this year. With appropriate screening, one-third of cancer deaths could be prevented, says ACS.

Screening is the greatest single tool for finding cancers early. Cancers found early are cancers that do not grow or metastasize and are cancers that can be treated more successfully than those that are found late. Early detection can extend life, reduce treatment, and improve the quality of life. For example, people can have colon cancer long before they know it. They may not have any symptoms, Patients diagnosed by a colon cancer screening have a 90 percent chance of survival while patients not diagnosed until symptoms are apparent only have a 8 percent change of survival.

Screening-accessible cancers, such as cancers of the breast, tongue, mouth, colon, rectum, cervix, prostate, testis, and skin, account for approximately half of all new cancer cases. If all Americans had regular cancer screenings, the five-year survival rate for cancers of the breast, tongue, mouth, colon, rectum, cervix, prostate, testis and skin could grow from 81 percent to 95 percent.

Screening costs less than treatment. For example, Medicare pays from $100 to $400 for a colorectal cancer screening test. The cost of treating colorectal cancer from diagnosis to death costs over $51,000, according to the Institute of Medicine.

To put cancer deaths in perspective, the number of Americans that die each year from cancer exceeds the total number of Americans lost to all wars that we have fought in this century. The American Cancer Society says that over 1.3 million new cancer cases will be diagnosed in the U.S. this year.

Despite our increasing understanding of cancer, unless we act with urgency, the cost to the United States is likely to become unmanageable in the next 10–20 years. The incidence rate of cancer in 2010 is estimated to increase by 29 percent for new cases, and cancer deaths are estimated to increase by 25 percent. Cancer will surpass heart disease as the leading fatal disease in the U.S. by 2010. With our aging U.S. population, unless we act now to change current cancer incidence and death rates, according to the September 1998 report from the Cancer March Research. Task Force, we can expect over 2.0 million new cancer cases and 1.0 million deaths per year by 2025. Listen to these startling statistics: One out of every four deaths in the U.S. is caused by cancer. That more than 1,500 Americans will die each day from cancer. The National Cancer Institute estimates that approximately 8.2 million Americans alive today have a history of cancer. One out of every two men, one out of every three women will be diagnosed with cancer at some point in their lifetime.

One of the tragedies of cancer is that we have tools available which can prevent much unnecessary suffering and death. But cancer must be prevented and it must be found early.

Deaths from colorectal cancer could be cut in half if most people over 50 had refuting screenings, for a disease that claims 56,700 a year.

Experts cite several barriers that prevent many Americans from getting cancer screenings. These include a lack of insurance coverage, inadequate insurance coverage, inability to pay for screenings, a fear of discomfort, and the fact that most of American health care is complaint drive, not preventive.

Insurance coverage is a major factor in whether people have preventive screenings. In other words, when screenings are covered by plans, people are more likely to get them. In California, screening rates for cervical and breast cancer are lower for uninsured women, who are less likely to have had a recent screening and more likely to have gone longer without being screened than women with coverage. In Medicare, for example, a study reported in Public Health Reports in October 1997, found that Medicare coverage increased the use of mammograms.

According to an University of California-Los Angeles Center for Health Policy Research study from February 1998, in California women ages 18–64, 63 percent of uninsured women had not had a Pap test during 1997 versus 40 percent of insured women. Additionally, approximately 67 percent of uninsured Californian women ages 30–64 had not had a clinical breast examination during 1997, compared to 40 percent for insured women in the same age group.

The bill we are introducing, by requiring plans to cover screenings, can reduce death, reduce suffering and reduce costs.

I urge my colleagues to support this bill.

A summary of the bill follows:

SUMMARY OF THE COMPREHENSIVE CANCER SCREENING ACT OF 2001

Requires private health insurance plans to cover cancer screenings consistent with professionally-developed and recognized medical guidelines, specifically: mammograms and clinical breast examinations (for breast cancer); ''pap'' tests and pelvic examinations (for gynecological cancers); colorectal screening (for colon and rectum cancers); prostate cancer screening (for prostate cancers).

Authorizes the U.S. Secretary of Health an Human Services by regulation to modify or update the coverage requirements to reflect advances in medical practice or new scientific knowledge, for all cancers as screenings are developed, based on the Secretary's own initiative or upon the petition of an individual or organization.

Prohibits health insurance plans from: denying eligibility for the purpose of avoiding the requirements of the bill; providing monetary payments to encourage individuals to accept less than the minimum protections available; penalizing or reducing reimbursement because a provider provides care consistent with these requirements; providing incentives to a provider to encourage the provider to provide care inconsistent with the requirements.

Requires plans to provide subscribers full information on the extent of coverage, including covered benefits, cost-sharing requirements, and the extent of choice of providers.

By Mr. SMITH of New Hampshire (for himself and Mr. INHOFE):

S. 870. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for public-private partnerships in financing of highway, mass transit, high speed rail, and intermodal transfer facilities projects, and for other purposes; to the Committee on Finance.

Mr. SMITH of New Hampshire. Mr. President, today I rise to introduce the Multi Modal Transportation Financing Act. The United States faces a significant shortfall in funding for our highway and bridge infrastructure needs. It is incumbent upon us to look at new and innovative ways to make the most of limited resources to address these significant needs. This bill will lift the existing restrictions on tax-exempt bond financing for public agencies seeking greater private sector participation in a variety of transportation projects. This financing tool will serve to manage congestion, build more transportation options, and encourage technological innovation.

This bill will adjust the tax code in order to remove a barrier to needed transportation infrastructure investment. Under current Federal tax law, highways built by government can be financed through the use of tax exempt bonds—but those built by the private sector are not eligible to use this valuable financing tool, even though this tool is currently available to the private sector for the construction of seaports, airports and other public infrastructure facilities. Tax-exempt bonds can reduce interest rates as much as two percentage points below rates on comparable taxable bond issues and can reduce financing costs by 20–25 percent. While this has been a huge benefit for other infrastructure needs, once the private sector seeks to participate in the development or operation of a government-owned highway or intercity rail project, tax-exempt financing is no longer available. Yet these transportation projects costing from $100 million to over $1 billion are rendered financially infeasible when subjected to taxable bond financing, forcing the private sector out of transportation project development.

As a result, public/private partnerships in the provision of highway facilities are unlikely to materialize, despite the potential efficiencies in design, construction, and operation offered by such arrangements. By depending solely on public sector tax-exempt financing, some projects will not be built at all, while projects that still get built are done so much later, at higher cost, greater inefficiency and public sector risk.

Private sector participation in these transportation projects will provide access to new expertise, greater operating efficiencies, new sources of investment capital, and private sector risk sharing. This practice of private sector involvement has already been successfully implemented in a number of other countries. U.S. companies are currently investing billions of dollars in foreign infrastructure projects that are not subject to the United States tax code discrimination against similar private investment. Increasing the private sector's role in these countries has offered opportunities for construction cost savings and more efficient operation.

The effort to enhance private sector participation began a few years ago by my predecessor as chairman of the environment and Public Works Committee, Senator John Chafee. While his legislation did pass the Senate, it never made it to the President's desk. It is time for this long over due private sector encouragement to become law.

I hope that this bill can be one in a series of new approaches to meeting our substantial transportation infrastructure needs and will be one of the approaches that will help us find more efficient methods to design, build, and operate the nation's transportation infrastructure. We should begin by knocking down barriers that discourage the private sector from unleashing its full resources to help build this nation's transportation network. I urge my colleague to join me in supporting this vital legislation.

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. 870

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 ''Multimodal Transportation Financing Act''.

SEC. 2. TAX-EXEMPT FINANCING OF QUALIFIED HIGHWAY INFRASTRUCTURE.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', or'', and by adding at the end the following:

''(13) qualified highway infrastructure projects.''.

(b) QUALIFIED HIGHWAY INFRASTRUCTURE PROJECTS.—Section 142 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(k) QUALIFIED HIGHWAY INFRASTRUCTURE PROJECTS.—

''(1) IN GENERAL.—For purposes of subsection (a)(13), the term 'qualified highway infrastructure project' means a project—

''(A) for the construction, reconstruction, or maintenance of a highway, including related startup costs, and

''(B) meeting the requirements of paragraph (2).

''(2) PROJECT REQUIREMENTS.—A project meets the requirements of this paragraph if the project—

''(A) serves the general public,

''(B) is located on publicly-owned rights-of-way, and

''(C) is publicly owned or the ownership of the highway constructed, reconstructed, or maintained under the project reverts to the public.''

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended—

(1) by striking ''or (12)'' and inserting ''(12), or (13)'', and

(2) by striking ''and environmental enhancements of hydroelectric generating facilities'' and inserting ''environmental enhancements of hydroelectric generating facilities, and qualified highway infrastructure projects''.

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION.—Section 147(c)(3) of the Internal Revenue Code of 1986 (relating to exception for certain land acquired for environmental purposes, etc.) is amended by striking ''or wharf'' both places it appears and inserting ''wharf, or qualified highway infrastructure project''.

(e) TREATMENT OF CERTAIN REFUNDING BONDS.—

(1) IN GENERAL.—Paragraph (2) of section 149(d) of the Internal Revenue Code of 1986 (relating to certain private activity bonds) is amended by inserting ''or any exempt facility bond issued as part of an issue described in paragraph (13) of section 142(a) (relating to qualified highway infrastructure projects)'' after ''other than a qualified 501(c)(3) bond''.

(2) SPECIAL RULES.—Paragraph (6) of section 149(d) of such Code is amended to read as follows:

''(6) SPECIAL RULES FOR PURPOSES OF PARAGRAPH (3).—For purposes of paragraph (3)—

''(A) bonds issued before October 22, 1986, shall be taken into account under subparagraph (A)(i) thereof except—

''(i) a refunding which occurred before 1986 shall be treated as an advance refunding only if the refunding bond was issued more than 180 days before the redemption of the refunded bond, and

''(ii) a bond issued before 1986, shall be treated as advance refunded no more than once before March 15, 1986, and

''(B) a bond issued as part of an issue that is either the 1st or 2nd advance refunding of the original bond shall be treated as only the 1st advance refunding of the original bond if—

''(i) at least 95 percent or more of the net proceeds of the original bond issue are to be used to finance a highway infrastructure project (regardless of whether the original bond was issued as a private activity bond),

''(ii) the original bonds and applicable refunding bonds are or are reasonably expected to be primarily secured by project-based revenues, and

''(iii) in any case in which—

''(I) the original bonds or applicable refunding bonds are private activity bonds issued as part of an issue at least 95 percent or more of the net proceeds of which are to be used to finance a qualified highway infrastructure project described in section 142(a)(13), the refunding bonds of the issue and original bonds of the issue satisfy the requirements of section 147(b), or

''(II) the original bonds and applicable refunding bonds are not private activity bonds, the second generation advance refunding

bonds of the issue (and any future bonds of the issue refunding such bonds) satisfy the requirements of section 147(b).''.

(3) SPECIAL RULE RELATING TO MATURITY LIMITATION.—Section 147(b) of such Code (relating to maturity limitations) is amended by adding at the end the following:

''(6) SPECIAL RULE FOR CERTAIN HIGHWAY INFRASTRUCTURE PROJECTS.—

''(A) IN GENERAL.—In the case of bonds of an issue described in section 149(d)(6)(B), the limit described in paragraph (1)(B) shall be reduced—

''(i) in any case in which the original bonds or applicable refunding bonds are private activity bonds, by the remaining weighted average maturity of the escrowed bonds with respect to both the first and second generation advance refunding, and

''(ii) in any case in which the original bonds and applicable refunding bonds are not private activity bonds, by the remaining weighted average maturity of the escrowed bonds with respect to the second generation advance refunding.

''(B) REMAINING WEIGHTED AVERAGE MATURITY OF ESCROWED BONDS.—For purposes of subparagraph (A), the remaining weighted average maturity of the escrowed bonds is equal to the weighted average maturity, calculated as of the applicable refunding bond issue date—

''(i) with respect to subparagraph (A)(i), of the applicable bonds advance refunded, and

''(ii) with respect to subparagraph (A)(ii), of the applicable bonds directly refunded by the second generation advance refunding bonds, and

treating any date of actual early redemption as a maturity date for this purpose.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

SEC. 3. MASS COMMUTING FACILITIES.

(a) EXEMPTION FROM STATE VOLUME CAP.—Section 146(g)(3) of the Internal Revenue Code of 1986 (relating to exception for certain bonds), as amended by section 2, is amended—

(1) by inserting ''(3),'' after ''(2),'', and

(2) by inserting ''mass commuting facilities,'' after ''wharves,''.

(b) INCLUSION OF ROLLING STOCK.—Section 142(c) of the Internal Revenue Code of 1986 (relating to airports, docks and wharves, mass commuting facilities and high-speed intercity rail facilities) is amended by adding at the end the following new paragraph:

''(3) MASS COMMUTING FACILITIES.—The term 'mass commuting facilities' includes rolling stock related to such facilities.''.

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

SEC. 4. MODIFICATION OF DEFINITION OF HIGH-SPEED INTERCITY RAIL FACILITIES.

(a) IN GENERAL.—Section 142(i)(1) of the Internal Revenue Code of 1986 (defining high-speed intercity rail facilities) is amended by striking '' and their baggage'' and all that follows and inserting ''on high speed rail corridors designated under section 104(d)(2) of title 23, United States Code, or on corridors using magnetic levitation technology.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

SEC. 5. TAX-EXEMPT FINANCING OF INTERMODAL TRANSFER FACILITIES.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond), as amended by section 2(a), is amended by striking ''or'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', or'', and by adding at the end the following:

''(14) intermodal transfer facilities.''.

(b) INTERMODAL TRANSFER FACILITIES.—Section 142 of the Internal Revenue Code of 1986, as amended by section 2(b), is amended by adding at the end the following:

''(l) INTERMODAL TRANSFER FACILITIES.—For purposes of subsection (a)(14), the term 'intermodal transfer facilities' means any facility for the transfer of people or goods between the same or different transportation modes.''.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds), as amended by section 2(c), is amended—

(1) by striking ''or (13)'' and inserting ''(13), or (14)'', and

(2) by striking ''and qualified highway infrastructure projects'' and inserting ''qualified highway infrastructure projects, and intermodal transfer facilities''.

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION.—Section 147(d)(3) of the Internal Revenue Code of 1986 (relating to exception for certain land acquired for environmental purposes, etc.), as amended by section 2(d), is amended by striking ''or qualified highway infrastructure project'' both places it appears and inserting ''qualified highway infrastructure project, or intermodal transfer facility''.

(e) CONFORMING AMENDMENTS.—Subsection (c) of section 142 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''or (11)'' both places it appears in paragraphs (1) and (2) and inserting '', (11), or (14)'', and

(2) by striking ''AND HIGH-SPEED INTERCITY RAIL FACILITIES'' in the heading thereof and inserting '', HIGH-SPEED INTERCITY RAIL FACILITIES, AND INTERMODAL TRANSFER FACILITIES''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 87—EXPRESSING THE SENSE OF THE SENATE THAT THERE SHOULD BE ESTABLISHED A JOINT COMMITTEE OF THE SENATE AND HOUSE OF REPRESENTATIVES TO INVESTIGATE THE RAPIDLY INCREASING ENERGY PRICES ACROSS THE COUNTRY AND TO DETERMINE WHAT IS CAUSING THE INCREASES

Mr. DORGAN (for himself, Mr. DASCHLE, Mr. REID, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. SCHUMER, Mr. HARKIN, and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 87

Whereas the price of energy has skyrocketed in recent months;

Whereas the California consumers have seen a 10-fold increase in electricity prices in less than 2 years;

Whereas natural gas prices have doubled in some areas, as compared with a year ago;

Whereas gasoline prices are close to $2.00 per gallon now and are expected to increase to as much as $3.00 per gallon this summer;

Whereas energy companies have seen their profits doubled, tripled, and in some cases even quintupled; and

Whereas high energy prices are having a detrimental effect on families across the country and threaten economic growth: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE CONCERNING THE NEED TO ESTABLISH A JOINT COMMITTEE OF THE SENATE AND HOUSE OF REPRESENTATIVES TO INVESTIGATE THE RAPIDLY INCREASING ENERGY PRICES ACROSS THE COUNTRY AND TO DETERMINE WHAT IS CAUSING THE INCREASES.

It is the sense of the Senate that there should be established a joint committee of the Senate and House of Representatives to—

(1) study the dramatic increases in energy prices (including increases in the prices of gasoline, natural gas, electricity, and home heating oil);

(2) investigate the cause of the increases;

(3) make findings of fact; and

(4) make such recommendations, including recommendations for legislation and any administrative or other actions, as the joint committee determines to be appropriate.

Mr. LIEBERMAN. Mr. President, I rise today to introduce a concurrent resolution calling attention to global e-commerce, a trade issue of great economic interest to this country. My esteemed colleague Senator MCCAIN and I have drafted this legislation to express the sense of Congress on the importance of promoting global electronic commerce. In the House of Representatives, Congresswoman TAUSCHER and Congressman DREIER will introduce the very same legislation. I am honored to be joined on this resolution by these three knowledgeable and distinguished leaders on technology issues.

Our economic landscape is undergoing a fundamental transformation. We are transitioning into a ''new economy'', a rapidly evolving, global marketplace that is governed by new rules and driven largely by new forces. Those new forces include information technology and the Internet. We all recognize that we are witnessing an electronic revolution. There is no shortage of statistics to prove what we are seeing all around us. According to a recent U.S. Department of Commerce report, approximately one third of the U.S. economic growth in the past few years has come from information technologies. Worldwide, there are more than 200 countries connected to the Internet today. That is up from 165 in 1996 and just eight in 1988. Today, more than 300 million people worldwide, more than half in North America, use the Internet. With Internet traffic continuing to double every 100 days, by 2005 more than one billion people will be connected. Importantly, more than three-quarters of them will be outside North America.

This digital age brought about by the Internet and information technology is opening new markets and growth opportunities for all types of U.S. companies in every corner of this vast country. ''Digital Trade'', including cross-border e-commerce transactions for